

ORIGINAL

Decision No. 44839

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
BARNET PURITZ, JOSEPH PURITZ and  
SAMUEL PURITZ, a copartnership doing  
business under the firm name of B.  
PURITZ OIL COMPANY, for a Certificate  
of Public Convenience and Necessity  
to operate as a Petroleum Irregu-  
lar Route Carrier in the State of  
California.

Application No. 31219

Francis X. Viera, For applicant

O P I N I O N

Barnet Puritz, Joseph Puritz and Samuel Puritz, copartners doing business as B. Puritz Oil Company, by the instant application as amended, seek a certificate of public convenience and necessity to operate as a petroleum irregular route carrier throughout the State of California pursuant to the provisions of Section 50 3/4 of the Public Utilities Act, as amended by Statutes 1949, Chapter 1399.

A public hearing was held on September 1, 1950, at Sacramento, before Examiner Silverhart and the matter submitted for decision. There were no protests to the granting of the application.

Applicants propose an on-call service, at the rates established by the Commission as minimum rates and charges applicable to the transportation of petroleum and petroleum products. The record indicates that applicants possess the financial resources and equipment required to maintain the proposed service.

It appears from the evidence that the present partnership was formed on July 1, 1948; that one of the partners was in business since 1938<sup>(1)</sup> when for-hire transportation operations were begun; that a highway contract permit was issued to applicants in 1948 and a currently-effective petroleum contract carrier permit was granted them on March 7, 1950. The testimony indicates that since 1938 applicants have been and are, engaged in the transportation of petroleum and petroleum products, except those requiring pressurized equipment, between all points and places in the counties of Alameda, Butte, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kern, Kings, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Placer, Plumas, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba.

Joseph Puritz testified that applicants did not, nor do they now, enter into written contracts with shippers; that there are no binding contractual obligations between shippers engaging their services and themselves, beyond the immediate shipment then being transported; that since 1938 applicants have carried petroleum products for the general public between the points hereinabove mentioned. The witness stated that applicants were unaware of the existence of a radial highway common carrier permit until March, 1950; that had they known of such permit, application for it would have been made prior to 1949.

Applicants did not present any public witnesses.

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(1) The business was founded by B. Barnet, father of the applicants, and to whom a highway contract carrier permit was issued in 1938.

The evidence, considered in its aspects most favorable to applicants, clearly demonstrates that they do not come within the purview of the "grandfather" provisions of the 1949 amendments to Sections 2-3/4 and 50-3/4 of the Public Utilities Act and therefore must rely upon a proper showing of public convenience and necessity as to the proposed service. We are of the opinion that public need for service by applicants to all points and places within the State of California has not been shown. The Commission finds that public convenience and necessity require that Barnet Puritz, Joseph Puritz and Samuel Puritz be authorized to operate a service as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Barnet Puritz, Joseph Puritz and Samuel Puritz are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be used as an element of value in rate-fixing, for any amount of money in excess of that originally paid to the State as the consideration for the granting of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not, in any respect, limited to the number of rights which may be given.

#### O R D E R

Application as above entitled having been filed, a public hearing having been held and the Commission, based upon the evidence therein adduced, having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Barnet Puritz, Joseph Puritz and Samuel Puritz, authorizing the establishment of and operation of a service as a petroleum irregular route carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of petroleum and petroleum products, except petroleum products requiring pressurized equipment, in tank trucks and tank trailers, over any public highway between all points and places within the counties of Alameda, Butte, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kern, Kings, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Placer, Plumas, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba, in the State of California.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
- (b) Within sixty (60) days from the effective date hereof and not less than five (5) days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective, appropriate tariffs and time tables.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of September, 1950.

R. Z. [Signature]  
James Z. [Signature]  
[Signature]  
Harold P. [Signature]  
[Signature]  
COMMISSIONERS