

ORIGINAL

Decision No. 45157

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MAX RUDOLPH for a certificate of)
 public convenience and necessity to)
 operate an automobile freight service)
 as a petroleum irregular route) Application No. 31822
 carrier between all points in the)
 State of California in the Counties)
 of Ventura, Los Angeles, and Santa)
 Barbara.)

Blaine T. Romney for applicant. Berol and Silver,
 by Bertram S. Silver, for Fortier Transportation Company, Lang
 Transportation Corporation, Acme Transportation, Inc. and
 Seargeant Transportation Company; Ventura Transfer Company,
 by Willard Orr; protestants.

O P I N I O N

Applicant requests a certificate of public convenience
 and necessity to operate as a petroleum irregular route carrier
 throughout the Counties of Ventura, Los Angeles, and Santa
 Barbara, in the State of California, for the transportation of
 crude oil, hot oil, and refined oil, in bulk in tank trucks
 and tank trailers, pursuant to the provisions of Section 50-3/4
 of the Public Utilities Act, as amended by Statutes 1949,
 Chapter 1399.

A public hearing on the application was held in
 Ventura on November 30, 1950. Evidence was presented at the
 hearing, and the matter was submitted. It is now ready for
 decision.

The applicant stated that his principal place of business is Santa Paula, Ventura County; that he has been in the general trucking business at Santa Paula for eight years under a permit as a radial highway common carrier. In the course of his business he has been hauling crude oil, hot road oils and diesel fuel. For performing this hauling, applicant has three tractors and three semitrailers with tanks. One tank has a capacity of 4,400 gallons, and two of the tanks have a capacity of 2,800 gallons each. On cross-examination applicant testified that, in addition to the equipment mentioned above, he has 14 tractors and trailers, one two-axle truck, and one three-axle truck, which are used for hauling citrus products. This latter hauling is the bulk of applicant's business. Applicant further testified that he has been, and was at the time of the hearing, hauling the three specified types of petroleum products from and to places in Ventura County for several customers; that he hauls diesel fuel from Los Angeles harbor to Ventura for one customer, and from Whittier to Ventura County for another customer. He further stated he does not yet do any hauling of petroleum products in Santa Barbara County, but in an emergency wishes to be able to supply diesel oil to several fruit growers in that county. Applicant further testified that he hauls diesel oil from the supplier to the citrus growers in Ventura County, and that there is no other person in Ventura County giving that service; that he has been asked by Union Oil Company to haul crude oil in Ventura County; that there are other carriers who transport hot road oils in

the County of Ventura; and that there are no other petroleum carriers with offices in Santa Paula, the nearest being at Ventura, 15 miles from Santa Paula. He also stated that he applied for a petroleum contract carrier's permit prior to March 30, 1950, and that, as he had no contracts, he was advised by a Commission employee, after March 30, 1950, to apply for a petroleum irregular route certificate. Because of these facts, applicant filed the application under consideration on October 9, 1950.

It was stipulated that protestants Fortier Transportation Company, Lang Transportation Corporation, and Acme Transportation, Inc. hold statewide rights as highway common carriers and petroleum irregular route carriers; that these protestants have never refused to transport petroleum or petroleum products upon request; that Lang Transportation Corporation has over 250 vehicles suitable for transporting petroleum and petroleum products; and that Fortier Transportation Company has over 200 vehicles suitable for transporting petroleum and petroleum products. By stipulation, Exhibit No. 1 was introduced by Acme Transportation, Inc. This exhibit shows that Acme Transportation, Inc. has 18 tank trucks, six tractor trucks, 18 full tank trailers, and six tank semi-trailers.

The testimony on behalf of protestant Seargeant Transportation Company shows that this company has its main terminal in Santa Barbara, and a secondary terminal in Los Angeles; that it has been in business for 20 years; that it

has statewide rights to haul petroleum and petroleum products in tank trucks and tank trailers; that 28 or 29 pieces of equipment are used in the hauling of petroleum and petroleum products; that the company can and will haul crude oil, diesel oil, and hot road oils; and that it can and will haul in Ventura County.

The evidence on behalf of protestant Ventura Transfer Company shows that this company has headquarters in Ventura, and a branch in Bakersfield; that it has operated since 1934 at least; that it has statewide rights to haul all types of petroleum and petroleum products in tank trucks and tank trailers; that it has 11 complete units of equipment, and is equipped to handle crude oil, diesel oil, and hot road oil, and can and will haul these petroleum products.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that Max Rudolph establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Max Rudolph is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or 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 grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business. 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.

ORDER

Application as above entitled having been filed, a public hearing having been held thereon, and the Commission having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Max Rudolph, authorizing the establishment 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 crude oil, hot road oils, and diesel fuel in tank trucks and tank trailers between all points and places in the County of Ventura, 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) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon 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, tariffs and time schedules satisfactory to the Commission.

In all other respects the application is denied.

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

Dated at San Francisco California, this 19th day of December, 1950.

R. F. Anderson
Justice J. Cassin
Walter D. Farrell
Harold P. Hill
Herbert P. Potter
 COMMISSIONERS