

ORIGINAL

Decision No. 45164

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
W. M. KOFAHL and WORTH C. POTTS,)
doing business as KOFAHL & POTTS,) Application No. 31204
a partnership, for a certificate of)
public convenience and necessity as)
a petroleum irregular route carrier.))

Kofahl & Potts, by Worth C. Potts, applicants. Gordon & Knapp, by Sanford A. Waugh, for Pacific Freight Lines and Pacific Tank Lines, Lloyd A. Guerra & Sanford A. Waugh, by Sanford A. Waugh, for Cantlay & Tanzola, Inc.; protestants.

O P I N I O N

The applicants herein request a certificate of public convenience and necessity to operate as a petroleum irregular route carrier throughout the Counties of Los Angeles, Orange, and Ventura, State of California, for the transportation of petroleum and petroleum products in tank trucks and tank trailers, pursuant to the provisions of Section 50-3/4 of the Public Utilities Act, as amended by Statutes of 1949, Chapter 1399. At applicants' request, the application was amended to include Riverside County.

Originally a hearing on the subject application was noticed for August 7, 1950, in Los Angeles. At that time and place applicants failed to make an appearance, and thereafter, on August 22, 1950, the Commission rendered its Decision No. 44693, dismissing the subject application. On September 5, 1950, applicants filed a petition for rehearing, which petition was, on September 26, 1950, granted, the Commission ordering a hearing on the application. Pursuant to this order, a public hearing on the application was held in Los Angeles on December 13, 1950, evidence was presented,

and the matter was submitted. It is now ready for decision.

The pertinent evidence herein shows that applicants received from the Commission, on September 7, 1949, a permit to operate as a radial highway common carrier. From September 7, 1949, to January 6, 1950, applicants hauled various petroleum products pursuant to their radial highway common carrier permit. On January 6, 1950, applicants leased all of their operating equipment to Macmillen Petroleum Corporation for one year from that date. The Commission's records show that, pursuant to applicants' request, their radial highway common carrier permit was suspended for one year, August 22, 1950, to August 22, 1951. A representative of Macmillen Petroleum Corporation testified that the corporation is using all of applicants' equipment 24 hours per day, and such use will continue during the period of the lease contract referred to. The evidence shows that applicants have no equipment, other than that leased to Macmillen with which to perform any hauling for the public generally, and no public witnesses were called to demonstrate a public need for the proposed services, or that public convenience would be met by the performance by applicants of the proposed service.

Upon the foregoing facts, the Commission is of the opinion, and finds, that there is no showing of public need for the services of applicants and that there is no showing that public convenience will be met by applicants' services, and, therefore, the application will be denied.

O R D E R

There having been a public hearing on the application herein, evidence having been presented at the hearing, the

matter having been submitted and the Commission being fully advised in the premises, and having found that public convenience and necessity do not require that W. M. Kofahl and Worth C. Potts be granted a certificate of public convenience and necessity to operate a service as a petroleum irregular route carrier, as defined in Section 2-3/4 of the Public Utilities Act, as amended by Statutes 1949, Chapter 1399.

IT IS HEREBY ORDERED that Application No. 31204, of W. M. Kofahl and Worth C. Potts, for a certificate of public convenience and necessity to operate as a petroleum irregular route carrier, be, and it hereby, is denied.

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

R. J. Dwyer
James J. O'Brien
James H. Lowell
Harold H. Hills
Wesley P. Potts
 COMMISSIONERS