

ORIGINAL

Decision No. 45469

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EDGAR H. COMPTON for a certificate)
of public convenience and necessity) Application No. 31212
to operate as an irregular route)
petroleum carrier.)

Edgar H. Compton, in propria persona. Donald Murchison,
for Pacific Freight Lines, Tank Lines Division, and Lloyd R.
Guerra, for Cantlay & Tanzola, Allyn Tank Lines, and Lang Trans-
portation Company, protestants.

O P I N I O N

Applicant requests a certificate of public convenience and necessity authorizing him to operate a service as a petroleum irregular route carrier, throughout all points and places in the State of California south of the City of Ventura, pursuant to the provisions of Section 50-3/4 of the Public Utilities Act, as amended by the Statutes of 1949, Chapter 1399.

A public hearing on the application was held on August 7, 1950, in Los Angeles. Applicant failed to appear, and the Commission rendered its Decision No. 44692, dated August 22, 1950, dismissing the application. On November 10, 1950, by letter dated November 7, 1950, applicant advised the Commission that, because of sudden illness, he had been unable to attend the hearing on August 7, 1950, and requested an opportunity to be heard. On December 19, 1950, the Commission ordered the application to be set for further hearing. Pursuant

to this latter order, a public hearing was held on January 19, 1951. Applicant was present in person, and Pacific Freight Lines, Tank Lines Division, appeared, through its attorney, as a protestant. Protestant's counsel stated that the protest would be withdrawn if applicant agreed to haul only crude oil, fuel oil, and black diesel fuel to or from points in California south of the city of Ventura. Applicant agreed to these restrictions, the protest was withdrawn, and the hearing was continued to March 5, 1951, in Los Angeles. Applicant appeared at the Commission's courtroom in Los Angeles on the latter date. Appearances were made on behalf of Cantlay & Tanzola, Allyn Tank Lines, and Lang Transportation Company, protestants, evidence was presented, and the matter was submitted. It is now ready for decision.

Applicant testified that his place of business is in Paramount, California; that he has, since October 4, 1949, been transporting bulk petroleum products in tank trucks and tank trailers, pursuant to a permit issued by the Commission, as a radial highway common carrier; that he has two diesel tractors and two tank semitrailers which he is presently using to haul petroleum products pursuant to his permit as a radial highway common carrier; and that he will use this same equipment to perform services as a petroleum irregular route carrier if he receives the authority he has requested. Applicant further testified that his financial statement, attached to the application as Exhibit "B", is substantially correct at the present time, the changes being that, since the application was filed,

he has disposed of one old tank trailer and purchased a newer one in its place, thereby increasing the value of his total assets, and has decreased his liabilities by about \$1,000 by decreasing the amounts due on the items "Contracts Payable - Trucks" and "Mortgage Payable - Real Estate & Home." The applicant then testified that, pursuant to his radial highway common carrier permit, he has been, and now is, transporting for Aromalene, Inc., Refiners' Sales Company, and Oxford Oil Company, crude oil from places in the counties of Ventura, Los Angeles, Orange, and Riverside, to Long Beach; that he has been transporting fuel oil and black diesel oil from Long Beach and Norwalk to places in the named counties; and that he is able, and desires authority, to continue such services pursuant to a petroleum irregular route carrier's certificate of public convenience and necessity.

It was thereupon stipulated between applicant and protestants, Cantlay & Tanzola, Allyn Tank Lines, and Lang Transportation Company, that applicant would accept a certificate of public convenience and necessity authorizing applicant to transport, in bulk, in tank trucks and tank trailers, crude oil from any point in Ventura, Los Angeles, Orange, and Riverside counties, to the city of Long Beach, and to transport in bulk, in tank trucks and tank trailers, black diesel oil and fuel oil from the cities of Long Beach and Norwalk to points in Ventura, Los Angeles, Orange, and Riverside counties, and that the protestants would withdraw their objections if any authority granted by the Commission were limited as outlined in the stipulation.

A witness called by the applicant testified that he was the secretary of one of applicant's shippers, and the assistant manager of another; that one of the companies has applicant haul bulk crude oil from the oil fields at various places in the counties of Ventura, Los Angeles, Riverside and Orange, to Long Beach; that both companies use applicant's services to transport black diesel oil and fuel oil from the cities of Long Beach and Norwalk to places in the four named counties; that these companies need applicant's services, as applicant hauls the so-called black oils which most carriers do not want to haul for the reason that the light oils cannot be hauled in tanks that haul crude oil, black diesel oil and fuel oil; that applicant's equipment has pumps for pumping oil out of sumps, and most carriers do not have trucks equipped with such pumps; that applicant's services are available twenty-four hours per day, and many times there are rush jobs when other carriers do not have available equipment; that applicant gives excellent service; and that, if applicant is granted a certificate, the companies which the witness represents will continue to use applicant's services to the full extent of applicant's authority.

Upon the evidence and stipulations set forth hereinabove, the Commission is of the opinion, and finds, that public convenience and necessity require that Edgar H. Compton establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Edgar H. Compton 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.

O R D E R

Application as above entitled having been filed, public hearings 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 Edgar H. Compton, 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 (a) crude oil in bulk, in tank trucks and tank trailers, from any point or points in the counties of Ventura, Los Angeles, Orange, and Riverside, to the city of Long Beach, and (b) black diesel oil and fuel oil, in bulk in tank trucks and tank trailers, from the city of Long Beach and the city of Norwalk to any point or points in the counties of Ventura, Los Angeles, Orange, and Riverside.

(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.

IT IS FURTHER ORDERED that Decision No. 44692, dated August 22, 1950, on Application No. 31212, be, and the same hereby is, revoked and annulled.

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

Dated at San Francisco, California, this 20th day of March, 1951.

R. F. [Signature]
Justin F. Casner
Harold P. Pottel
John L. McMillan

COMMISSIONERS