

ORIGINAL

Decision No. 49472

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of L. L. KIRCHHOF, an individual,)
doing business under the firm)
name and style of SPEEDS OIL TOOL)
SERVICE, for certificate of public)
convenience and necessity to)
operate as a petroleum irregular)
route carrier.)

Application No. 34691

Jack H. Glines, for the applicant. Marvin
Handler, for the Tank Truck Operators' Association
of California, L. W. Potter, dba L. W. Potter
Trucking Company, and Arden T. Jensen, for Richards
Trucking Company, interested parties.

O P I N I O N

Applicant requests a certificate of public convenience and necessity to operate as a petroleum irregular route carrier within a radius of 50 miles of the City of Santa Maria.

A public hearing was held at Santa Maria on November 24, 1953, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the application was restricted in scope by an amendment agreed to by all parties, under the terms of which the applicant limited its proposal to (1) the use of pump or vacuum-type tank trucks and trailers, and (2) the transportation of shipments having both origin and destination within two miles of an oil well, oil well site, or pipe line break. An oil well site was defined as being

any location upon which a well is about to be constructed, is being constructed, or is not yet producing.

Likewise there was an amendment to the rate proposal which was attached to the application as Exhibit "A" wherein applicant now proposes to charge the rates which are presently prescribed in a tariff published by L. W. Potter, doing business as L. W. Potter Trucking Company, Local Freight Tariff No. 1. Item 20 of that tariff prescribes hourly rates for three types of equipment as follows:

1. Pump truck with tank mounted thereon, having a carrying capacity of not exceeding 29 barrels (42 gallons per barrel), including driver \$ 6.50 per hour
2. Vacuum truck having a tank capacity of 29 to 80 barrels 8.00 per hour
3. Vacuum truck having a tank capacity exceeding 80 barrels 13.00 per hour

In addition, Exhibit 1 contains some proposed amendments to the existing rules in the above-mentioned tariff.

L. W. Potter, who appeared as an interested party in this proceeding, testified that he intended to file an application to amend his tariff to incorporate the rules set out in Exhibit 1, which rules relate to minimum time and holiday rates.

The owner of applicant company testified that he has been operating vacuum trucks for one year. The equipment he owns consists of two vacuum trucks, as set out in Exhibit "C" attached to the application. These trucks are used in connection with applicant's business of servicing oil wells. Specifically, they are used in hauling drilling mud, water,

oil, sludge, and various other liquid commodities which are hauled to and from oil wells in connection with the drilling and servicing thereof. He testified that approximately 10 per cent of his hauling business consists of the hauling of petroleum products on the highway, whereas the remaining 90 per cent consists of off-highway hauling, or the hauling of commodities other than petroleum products on the highways. The witness further testified that he was in a position to secure additional equipment if necessary, and that the equipment he now operates is constantly in demand by the oil companies and the well drilling and servicing companies.

Testimony was presented by a witness who operates an oil well production maintenance company to the effect that in his operations, which are within 50 miles of Santa Maria, he uses the services of applicant. He stated that there is a great demand for vacuum-type equipment in that area. Likewise, testimony was presented by a representative of an oil company who stated that his company has approximately 735 wells in the area and that, in the conduct of its operations, it has need for vacuum truck equipment. Specifically, his company uses applicant. In addition to these witnesses, the testimony of three other representatives of oil companies and one other representative of a service company was stipulated into the record to the effect that they would testify substantially the same as the witnesses previously mentioned.

The owner of L. W. Potter Trucking Company testified that he operates 13 vacuum trucks and one pump truck in the area concerned, as well as other areas, but that he has no

objections to this proposal providing it does not upset the rate structure. Since applicant had voluntarily amended his proposal to conform to the rates now published by Potter and to the rules proposed to be published, there was no objection to the application. However, the proposed rates may be changed at any time upon a showing before the Commission.

Exhibit 2 consists of a balance sheet as of November 17, 1953, for applicant, and Exhibit 3 is an income and expense statement for the first 10 months of 1953.

Upon the facts in this record we find that public convenience and necessity require that L. L. Kirchhof, an individual, doing business as Speeds Oil Tool Service, establish and operate services as a petroleum irregular route carrier between all points and places within 50 miles of Santa Maria, subject to the restrictions that the service be limited to pump or vacuum-type equipment, and further limited to the transportation of shipments having both origin and destination within two miles of an oil well, well site, or pipe line break.

L. L. Kirchhof 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 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.

Inasmuch as this service is similar to that performed by the L. W. Potter Trucking Company as authorized by Decision No. 45681, dated May 8, 1951, in Application No. 32088, as amended by Decision No. 45955, dated July 17, 1951, and based upon the showing made in this proceeding, the applicant is hereby authorized to publish rates upon an hourly rather than a weight basis. Applicant may establish rates conforming to those published in L. W. Potter Trucking Company's Local Freight Tariff No. 1 as amended by Exhibit 1 in this proceeding.

O R D E R

Application as above entitled having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding 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 L. L. Kirchhof, doing business as Speeds Oil Tool Service, authorizing the establishment and operation of a service as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in pump or vacuum-type tank trucks and trailers between all points and places within 50 miles of Santa Maria, provided that applicant shall transport only those shipments

which have both origin and destination within two miles of an oil well, well site, or pipeline break, a well site being any location upon which a well is about to be constructed, is being constructed, or is not yet producing.

(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 days after the effective date hereof.
- (b) Within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, appropriate tariffs naming rates, rules and regulations as described in the foregoing opinion and in Exhibit No. 1 in this proceeding.

(3) That in all other respects the application is hereby denied.

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

Dated at San Francisco, California, this 21st day of December, 1953.

R. E. [Signature]
President
James J. [Signature]
Thomas H. [Signature]
John L. [Signature]
Gene Higgins
Commissioners