

Decision No. 49894

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of EUREKA REFINING CORPORATION,	)	
for authority to suspend operation	)	Application No. 35144
of an automotive service as a	)	
common carrier of Petroleum Prod-	)	
ucts between California and Nevada	)	

Richard F. West, for applicant.  
Floyd McColl, for Commission Staff.

O P I N I O N

The Eureka Refining Corporation by application filed February 11, 1954 requests permission "to suspend service as a common carrier for the transportation of persons and/or property between Long Beach, California and Las Vegas, Nevada and intermediate points as authorized by Decision No. 44734 issued on Application No. 31060.

"That the following conditions exist which are relied upon as justification for the authority sought:

"Applicant operates exclusively under one government contract as a private carrier which temporarily precludes the necessity of operating under a common carrier permit. It is expected that this condition shall exist at least one year."

Public hearing was held in Long Beach, California before Examiner Rowe on March 25, 1954 at which time oral evidence was adduced and the matter duly submitted.

The decision referred to in the quoted portion of the above-entitled application was issued August 29, 1950 and granted applicant a certificate of public convenience and necessity as a

petroleum irregular route carrier. The certificate was issued to Ben Hur Refining Corporation, the former name of applicant. The controller of applicant testified that during the six months he has been associated with Eureka Refining Corporation it has performed no service as a petroleum irregular route carrier. He further stated that a report filed with the Commission showing gross revenues from common carrier operations of \$72,456.50 was erroneous and that said sum was merely the amount of cost of transportation of jet fuel sold to the United States Government and delivered to Nellis Air Force Base in Las Vegas. This applicant holds no interstate common carrier rights and the reference to common carrier operations between Long Beach and Las Vegas was incorrect. It wishes to suspend operations as a petroleum irregular route carrier.

No justification for such a request was shown. The application herein will therefore be denied. Also, according to the testimony, subsequent to March 21, 1953 applicant has filed no evidence of adequate protection against liability imposed by law for the payment of damages for personal injury or property damage as required by General Order No. 100; and it further appearing from the evidence of record that operations under the above-mentioned certificate of public convenience and necessity has been discontinued without any authorization to suspend or discontinue the same; therefore it is found that Eureka Refining Corporation is no longer conducting and has unlawfully abandoned said petroleum irregular route service.

O R D E R

Application as aforesaid having been filed, public hearing having been held and the Commission being fully advised in the premises,

IT IS ORDERED that Application No. 35144 be, and it hereby is, denied. The effective date of this order shall be twenty days after the date hereof.

IT IS FURTHER ORDERED that the certificate of public convenience and necessity granted to applicant Eureka Refining Corporation, under its former name, Ben Hur Refining Corporation by said Decision No. 44734, dated August 29, 1950 in Application No. 31060 be, and it hereby is, revoked.

IT IS FURTHER ORDERED that Eureka Refining Corporation shall, within thirty days after the effective date of this order and on not less than five days' notice to the Commission and the public, cancel its tariff rates, rules and regulations.

The Secretary is hereby directed to cause a certified copy of this order to be served upon Eureka Refining Corporation.

This order revoking the operative rights of the certificate shall take effect thirty days after lawful service thereof upon Eureka Refining Corporation, unless said Eureka Refining Corporation, within the effective date shall have filed with this Commission a written response to this order, denying the facts set forth herein and requesting a public hearing on such revocation of said certificate of public convenience and necessity, in which event the effective date of said order of revocation will thereby be stayed until hearing on such revocation is held and further order thereon issued.

Dated at San Francisco, California, this 10 day of April, 1954.

R. F. Jones  
JUSTICE J. ...  
D. E. ...  
...  
...  
COMMERCIAL ...  
APR 10 1954  
-3- Commissioner ... necessarily absent in the disposition of ...

*CORRECTION*

# CORRECTION

THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

IT IS FURTHER ORDERED that the certificate of public convenience and necessity granted to applicant Eureka Refining Corporation, under its former name, Ben Hur Refining Corporation by said Decision No. 44734, dated August 29, 1950 in Application No. 31060 be, and it hereby is, revoked.

IT IS FURTHER ORDERED that Eureka Refining Corporation shall, within thirty days after the effective date of this order and on not less than five days' notice to the Commission and the public, cancel its tariff rates, rules and regulations.

The Secretary of the Commission is hereby directed to cause a certified copy of this Order to be served upon Eureka Refining Corporation in the manner prescribed by law.

The effective date of the above order revoking the operative rights of applicant shall be the twentieth day after lawful service thereof upon said Eureka Refining Corporation, unless said Eureka Refining Corporation before such effective date shall have filed with this Commission a written response to this order, denying the facts set forth herein and requesting a public hearing on such revocation of said certificate of public convenience and necessity, in which event the effective date of said order of revocation will thereby be stayed until hearing on such revocation is held and further order thereon issued.

Dated at San Francisco, California, this 6<sup>th</sup> day of April, 1954.

R. Z. Anderson  
President

Justus J. Adams

John E. McMill

Wm. R. Rogers

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Commissioners

-3- Commissioner.....Kenneth Rottex..... being necessarily absent, did not participate in the disposition of this proceeding.