

ORIGINALDecision No. 50327

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DUDLEY T. PRESCOTT for a certificate)
 of public convenience and necessity)
 as a petroleum irregular route carrier)
 to operate a vacuum tank truck service) Application No. 35326
 within a radius of fifty miles from)
 base of operations, with emergency)
 service to all areas in the State of)
 California being developed or ex-)
 plored for oil.)

E. H. Loughman, for applicant.
Glanz & Russell, by Arthur Glanz, for System
 Tank Lines, Inc., Asbury Transportation
 Company, Cantlay and Tanzola, Inc., and
 Routh Transportation Co., interested
 parties.
C. S. Abernathy, Senior Transportation Rate
 Expert, for the Commission's staff.

O P I N I O N

Dudley T. Prescott is now and has been since January 1952 rendering service in California pursuant to a radial highway common carrier permit, transporting petroleum products consisting of drilling fluids, oils for drilling purposes, and road oils. He also oils and waters roads, cleans oil sumps and tanks and hauls water, waste materials, and prepared drilling mud. By the application herein he sought authority to render service as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of such of the foregoing items as are included in the term "petroleum or petroleum products" in tank trucks or tank trailers over public

highways between any two or more places in California within a radius of 90 miles of the City of San Buenaventura (Ventura), California.

Applicant has one 45-barrel tank truck and one 50-barrel tank truck, both of which are equipped with vacuum pumps and hoses and which he now uses and will use in the future in rendering the service. He proposes to charge the following rates:

- (a) Base rate of \$8.65 per hour, plus federal tax, for the 45-barrel vacuum tank unit and \$9.00 per hour, plus federal tax, for the 50-barrel vacuum tank unit.
- (b) Minimum charge for three hours' service for work done at any time of day or night.

A public hearing on the application was held in Oxnard, California, on June 4, 1954 before Examiner Rogers, and continued for further hearing in Santa Barbara on June 18, 1954 concerning applicant's proposed rates. At the latter time and place applicant made no appearance, and the matter was submitted. It is ready for decision.

Several petroleum irregular route carriers and a Commission rate expert appeared at the June 4, 1954 hearing. The parties stipulated as follows:

- (1) Applicant's service as a petroleum irregular route carrier will be limited to the transportation of petroleum and petroleum products in vacuum-type tank trucks and trailers only with compressors attached and only in connection with and incidental to drilling, maintenance, reconditioning or abandoning of oil wells or the repair of pipe line breaks;

(2) The area in which the applicant will operate will be within Ventura and Santa Barbara Counties and that portion of Los Angeles County within a radius of 10 miles of Castaic Junction which is the intersection of California Highway No. 126 and U. S. Highway No. 99 near the town of Castaic.

Applicant testified that he operates nothing but vacuum trucks with compressors attached; that he proposes an "on-call" service and does not and will not operate over regular routes; that only about ten per cent of his total operation consists of hauling petroleum or petroleum products over the public highways and that the bulk of the operations is entirely on private property. He stated that he renders the proposed service for several petroleum producing companies between points in the area defined in the stipulation; and that they will need such service in the future.

A representative of a petroleum products producing corporation stated that the company had been using applicant's services for about 2½ years; that applicant gives good service; and that it is difficult to get the type of service rendered by applicant from other carriers when it is needed.

Neither applicant nor the Commission staff presented any evidence relative to rates. ✓

Upon the evidence of record herein, we find that applicant has the experience and financial ability to conduct the proposed operation and that public convenience and necessity require that applicant establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order. ✓

No finding is made, however, concerning the propriety of the rates, rules and regulations which applicant proposes to maintain for the service herein authorized. Applicant is hereby placed on notice that his rates, rules and regulations shall conform to the provisions of the Commission's minimum rate orders unless specific authority to deviate therefrom is first obtained.

Dudley T. Prescott is placed on 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 having been made, the Commission being fully advised and 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 Dudley T. Prescott 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 vacuum-type tank trucks and trailers only with compressors attached and only in connection with and incidental to drilling, maintenance, reconditioning or abandoning of oil wells or the repair of pipe line breaks between all points and places in Ventura and Santa Barbara Counties and that portion of Los Angeles County within a radius of 10 miles of Castaic Junction, which is the intersection of California Highway No. 126 and U. S. Highway No. 99 near the town of Castaic.

(2) That in providing service pursuant to the certificate herein granted there shall be compliance with the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon 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 tariffs satisfactory to the Commission.

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

Dated at Los Angeles, California,
this 27th day of July, 1954.

John E. Mitchell
President

Justin F. Craven

Bennett Patten

Deane Roggins

Commissioners