

**ORIGINAL**Decision No. 50330

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 T. A. SMITH, doing business as T. A. )  
 SMITH TRUCKING, for a certificate of )  
 public convenience and necessity as )  
 a petroleum irregular route carrier )  
 to operate a vacuum tank truck serv- )  
 ice within a radius of ninety miles )  
 from base of operations, with emer- )  
 gency service to all areas in the )  
 State of California being developed )  
 or explored for oil. )

Application No. 35316

Johnston & Lucking, by Bruce Johnston, 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 Trans-  
 portation Rate Expert, for the Commission's staff.

O P I N I O N

T. A. Smith is an individual, doing business as  
 T. A. Smith Trucking, pursuant to a radial highway common carrier  
 permit and a petroleum contract carrier permit issued by this  
 Commission. He seeks authority as a petroleum irregular route  
 carrier, as defined in Section 214 of the Public Utilities Code,  
 for the transportation of certain specified petroleum products  
 in tank trucks and tank trailers in a portion of the State of  
 California. He has, and will use if certificated, the follow-  
 ing equipment:

- (a) Three 50-barrel capacity vacuum tank trucks.
- (b) One 70-barrel capacity vacuum tank truck.
- (c) Two 100-barrel capacity tank trailers with tractors.

He charges and proposes to charge the following rates per hour, plus federal tax, for all time elapsing from departure from base of operations until the return thereto:

\$ 9.00 per hour for 50-barrel trucks.  
9.50 per hour for 70-barrel trucks.  
13.50 per hour for a 100-barrel unit.

Public hearings on this application were held before Examiner Rogers in Oxnard, on June 4, 1954, and in Santa Barbara, on June 18, 1954. At the latter hearing the matter was submitted subject to the filing by applicant of an additional exhibit. This exhibit has been filed and the matter is ready for decision.

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

(1) Applicant will restrict his operations to the transportation of petroleum and petroleum products, including oil-based drilling fluids and drilling muds, oil and oil-based chemicals for drilling purposes, road oils and oil-contaminated waste products only in vacuum or pump-type trucks and trailers with pumps or compressors attached, and only in connection with and incidental to the drilling, maintenance, reconditioning or abandonment of an oil well or an oil well site or in connection with the servicing of its facilities or roads leading thereto, or in connection with the repair of a pipe line break;

(2) The area in which applicant will operate will be in Ventura and Santa Barbara Counties and that part of Kern County south of California Highway No. 166 and within a 20-mile radius of Castaic Junction which is located at the intersection of California Highway No. 126 and U. S. Highway No. 99 near the town of Castaic.

In addition to the foregoing, applicant stated that if he is given the requested certificate his petroleum contract carrier permit may be canceled.

Applicant testified that he commenced the type of operations for which he is seeking a certificate of public convenience and necessity in Ventura County in 1947, and has continuously operated since that date, having expanded his operations to include the territory described in the stipulation; that his services are "on call"; that he does not and will not operate over regular routes; that about 85 per cent of his hauling is entirely on private property, and that all or some portion of each trip in the remaining 15 per cent is on public highways. He further testified that he has charged the proposed rates since 1947; that he is making a fair rate of return;<sup>1</sup> and that he desires to continue to assess and collect such rates.

A representative of an oil producing company testified that the oil producers use and need the type of service which applicant gives and proposes to give, and desire that applicant continue to render service as he proposes.

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 } ✓

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<sup>1</sup> Exhibit No. 3.

to the provisions of the Commission's minimum rate orders unless specific authority to deviate therefrom is first obtained. ✓  
✓  
✓

T. A. Smith 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 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 T. A. Smith, doing business as T. A. Smith Trucking, 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, including oil-based drilling fluids and drilling muds, oil and oil-based chemicals for drilling purposes, road oils and oil-contaminated waste

products only in vacuum or pump-type trucks and trailers with pumps or compressors attached, and only in connection with and incidental to the drilling, maintenance, reconditioning or abandonment of an oil well or an oil well site, or in connection with the servicing of its facilities or roads leading thereto, or in connection with the repair of a pipe line break, between all points and places in Ventura and Santa Barbara Counties and that portion of Kern County south of California Highway No. 166 and within a twenty-mile radius of Castaic Junction which is located at 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.

(3) That on the date the petroleum irregular route carrier service is instituted the petroleum contract carrier permit of T. A. Smith, doing business as T. A. Smith Trucking, shall be cancelled.

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

Dated at Los Angeles, California  
this 27<sup>th</sup> day of July, 1954.

Richard E. Mitchell  
President  
Justus F. Craven  
Lawrence P. Patten  
Gene Roggins

Commissioners