

ORIGINALDecision No. 50472

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 LEO L. BOOKLESS and IRVING D. OSBURN)
 doing business as B AND O SERVICE)
 COMPANY, for a certificate of public)
 convenience and necessity as a petroleum)
 irregular route carrier to operate a)
 vacuum tank truck service within the)
 Counties of Santa Barbara, San Luis)
 Obispo, and Monterey, California, with)
 emergency service to all areas in the)
 State of California being developed or)
 explored for oil.)

Application No. 35452

Marion A. Smith and C. Douglas Smith, by
C. Douglas Smith, for applicants. Glanz and
 Russell, by Theodore Russell, for System Tank
 Lines, Inc., Asbury Transportation Company,
 Cantlay and Tanzola, Inc., and Routh Trans-
 portation, L. L. Kirchof, doing business as
 Speed Oil Tool Service, interested parties.
C. S. Abernathy, Senior Transportation Rate
 Expert, for the Commission staff.

O P I N I O N

Applicants are partners doing business under the name of
 B and O Service Company. They render service as a radial highway
 common carrier, pursuant to a permit issued by this Commission,
 transporting petroleum products consisting of drilling fluids,
 oils for drilling and production purposes, and road oil, within
 the Counties of Santa Barbara, San Luis Obispo and Monterey,
 California, as requested by customers. They have, and will use,
 if certificated, the following equipment:

- (a) One 47-bbl. capacity pump tank truck.
- (b) Two 32-bbl. capacity pump tank trucks.
- (c) Two 32-bbl. capacity vacuum tank trucks.
- (d) One 43-bbl. capacity pump tank truck.

Applicants charge and propose to charge the following rates per hour plus federal tax for all time elapsing from departure from their base of operations until the return thereto, with a minimum charge of two hours' service for any work done:

\$7.00 per hour for 32-bbl. vacuum tank unit.
\$6.00 per hour for 32-bbl. pump tank unit.
\$6.50 per hour for 43- to 47-bbl. pump tank unit.

A public hearing on the application was held before Examiner Kent C. Rogers in Santa Barbara on June 18, 1954, at which time the matter was continued to August 4, 1954, with the proviso that if the parties stipulated to certain matters prior to August 4, 1954, the matter would be submitted. The parties have stipulated to the said matters (Exhibit No. 2) and the application is ready for decision.

The parties have agreed as follows: any certificate issued pursuant to the herein application shall be restricted to the transportation of petroleum and petroleum products, drilling fluids, oil and chemicals for drilling purposes, and road oil in connection with the surfacing of roads, in bulk, in vacuum-type or pump-type tank trucks in connection with, or incidental to, the drilling, reconditioning, or abandonment of an oil well or oil well site, or servicing its facilities and roads thereto, or the repair of pipe line breaks, between points and places in the Counties of Santa Barbara, San Luis Obispo and Monterey.

One of the partners testified that the applicants commenced the type of operations, for which they are now requesting a certificate, early in 1951 in the area they desire to serve and have continuously rendered such services since that time; that applicants' services are "on call"; that they do not and will not operate over regular routes; that about 80 percent of

their operations are entirely on private property, and that all or some portions of each trip in the remaining 20 per cent are on public highways. Applicants' financial condition is reflected on Exhibit B, attached to the application.

Evidence was presented showing that oil producers in the proposed service area use and need applicants' services and desire that applicants continue to render services as they propose.

Upon the evidence of record herein we find that applicants have the experience and financial ability to conduct the proposed operations and that public convenience and necessity require that applicants 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 applicants propose to maintain for the service herein authorized.

Leo L. Bookless and Irving D. Osburn are 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 Leo L. Bookless and Irving D. Osburn, doing business as B and O Service Company, 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, drilling fluids, oil and chemicals used for drilling purposes and road oil in connection with the surfacing of roads, in bulk, in vacuum-type or pump-type tank trucks in connection with, or incidental to, the drilling, reconditioning, or abandonment of an oil well or oil well site, or servicing its facilities and roads thereto, or the repair of pipe line breaks, between points and places in the Counties of Santa Barbara, San Luis Obispo and Monterey.

(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 San Francisco, California,
this 24th day of August, 1954.

[Signature]
President

[Signature]

[Signature]

Commissioners