

Decision No. 50534**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 MARVIN R. TIDWELL and RAMONA L. TIDWELL,
 doing business as MARVIN TIDWELL TRUCK-
 ING, for a certificate of public con-
 venience and necessity as a petroleum
 irregular route carrier to operate a
 vacuum tank truck service within a
 radius of 50 miles from base of opera-
 tions, with emergency service to all
 areas in the State of California being
 developed or explored for oil.

Application No. 35567

George B. Prentice, for applicants. Glanz and
 Russell, by R. Y. Schureman, for System Tank Lines,
 Inc. and Routh Transportation Company, interested
 parties.

O P I N I O N

Marvin R. Tidwell and Ramona L. Tidwell, doing business as Marvin Tidwell Trucking, since about October 1951 have been and now are engaged in the transportation of petroleum products, such as drilling fluid, oils for drilling purposes, and road oils, pursuant to a radial highway common carrier permit issued by this Commission. They seek 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, consisting of drilling fluids, oils for drilling purposes, and road oil, within a radius of 50 miles from Ventura, their primary base of operations, with emergency service to all areas in the State of California being developed or explored for oil. They have and will use, if certificated, the following equipment:

- (a) One 60-barrel capacity vacuum tank truck
- (b) One 67-barrel capacity vacuum tank truck

They charge and propose to charge \$9.50 per hour (plus ✓
federal tax) for all time elapsing between departure from base ✓
of operations until return thereto, with a minimum charge for ✓
three hours' service for each of said tank trucks.

Public hearings were held in Oxnard on August 19 and
24, 1954, before Examiner Kent C. Rogers, evidence was presented
and the matter was submitted.

The parties have agreed as follows: any certificate
issued pursuant to the herein application should be restricted ✓
to the transportation of petroleum and petroleum products,
drilling fluids, oil and chemicals for drilling purposes, and
road oils in connection with the servicing 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 Ventura and Santa Barbara.

Marvin R. Tidwell testified that applicants commenced
the type of operation for which they are now requesting a
certificate three years ago; that they frequently serve between
various places in Ventura County and less frequently between
places in Santa Barbara County; that their services are on call
twenty-four hours a day, seven days per week; that they do not
operate over regular routes; that a large portion of their
services are entirely on private property; that they have
rendered service and will render service for any person; that

they have served all the oil companies in the area; and that in July 1954 they had a total of seventy-one calls for service, some of which calls included two or more jobs.

The service engineer for an oil-producing company in Ventura County testified that his company uses all companies in the area rendering service similar to that performed by applicants, including applicants; that his company uses applicants five to twenty times per month; that there are times when there are not enough outfits rendering the type of service proposed by applicants to care for his company's needs; and that applicants render a satisfactory service, and their services are needed in the area.

Applicants' financial condition is reflected on Exhibit "A" attached to the application.

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 authorized.

Marvin R. Tidwell and Ramona L. Tidwell, doing business as Marvin Tidwell Trucking, 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 Marvin R. Tidwell and Ramona L. Tidwell, doing business as Marvin Tidwell 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, drilling fluids, oil and chemicals for drilling purposes, and road oils in connection with the servicing 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 Ventura and Santa Barbara, California.

(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 14th day of September, 1954.

John E. Mitchell
President

James J. Colwell

Samuel H. Potter

Deane Higgins

Commissioners