

ORIGINAL

Decision No. 35895

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application
of L. A. (MIKE) SCHAGER for
Certificate of Public Convenience
and Necessity to operate as a
Petroleum Irregular Route Carrier

Application No. 35895

Celia W. Young, for applicant

O P I N I O N

L. A. Schager states that he is now, and since about June 1949, has been, transporting oil well drilling fluids, muds and materials containing petroleum in vacuum type and pump type tank trucks and tank trailers between points within 50 miles of the City of Huntington Beach, California. His operations at present are conducted under authority of radial highway common carrier permit No. 30-2313, city carrier permit No. 30-2535, and petroleum contract carrier permit No. 30-2727. He seeks authority as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum, containing commodities in the described area. He has, and will use if he is granted the requested authority, the following vacuum and pump tank equipment: two 30-barrel tank trucks, one 35-barrel tank truck, one 50-barrel tank trailer and tractor, one 85-barrel tank trailer and tractor, and one 100-barrel tank trailer and tractor.

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Applicant proposes to charge the rates as set forth in Local Vacuum and Pump Tank Truck Tariff No. 7 of Southwestern

Motor Tariff Bureau, J. L. Beeler, Agent, California Public Utilities Commission No. 16, insofar as said tariff will be applicable to the authority granted, with the exception that applicant's minimum charge will be for one hour.

A public hearing on the application was held in Los Angeles on December 9, 1954 before Examiner Kent C. Rogers. At the hearing evidence was presented. Prior thereto notices thereof were mailed to possibly interested parties including *Oil* tariff agents and motor trucking associations. There were no appearances other than by applicant.

The applicant testified that he and a man named Emerson started the operations in about June, 1949 and that for about one and one-half years the operation has been conducted by applicant alone; that he operates on call, seven days per week and twenty-four hours per day; that his services are, and have been, conducted within a radius of fifty miles of the City of Huntington Beach; that services are rendered for any person or corporation needing and requesting his services; that he does not operate over regular routes; that in eighty percent of his trips, no portions thereof are on a public highway; and that he has been and is operating at a profit (see Exhibit "C" on the application for his financial condition on September 30, 1954). Applicant stated that if he is given the requested certificate, his petroleum contract carrier permit may be cancelled.

Representatives of two oil producing companies testified that the oil producers in applicant's service area use and need the type of service which applicant gives

and proposes to give and that they desire that he 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.

L. A. Schager 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 as to the number of rights which may be given.

O R D E R

Application having been made, the Commission being fully advised in the premises 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 L. A. (Mike) Schager

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 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, maintenance 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 all points and places within a radius of fifty miles of the City of Huntington Beach, 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.

(3) That on the date the petroleum irregular route carrier service is instituted the petroleum contract carrier permit of L. A. (Mike) Schager shall be cancelled.

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

Dated at San Francisco, California, this 4th day of January, 195 .

Arthur E. Kitchell
President

Justin F. Caswell

Paul L. Lutz

Commissioners