

Decision No. 51413**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Kyle O. Mayes and Jimmie C. Mayes, )  
 copartners, dba Kyle O. Mayes Co. for )  
 a certificate of public convenience )  
 and necessity to operate as a petroleum ) Application No. 35922  
 irregular route carrier between all )  
 points and places in Los Angeles and )  
 Orange Counties, pursuant to Section )  
 1061-73, inclusive, of The Public )  
 Utilities Code. )

Glanz and Russell by Ernest F. Shelander, for applicant.  
Wayne B. Stephens, for the Commission Staff.

O P I N I O N

By the application filed November 1, 1954, Kyle O. Mayes and Jimmie C. Mayes, doing business as Kyle O. Mayes Co., seek a certificate of public convenience and necessity authorizing them to transport, in vacuum tank trucks, petroleum and petroleum products, as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code in Los Angeles and Orange Counties.

A public hearing was held before Examiner Rowe on March 29, 1955, in Los Angeles, California. Evidence was adduced and the matter was duly submitted for decision. No one appeared to protest the application.

Applicant Jimmie C. Mayes who manages the firm's vacuum tank truck business, has been so engaged in the oil fields since 1946. The partnership presently operates three vacuum tank trucks. The operation is carried on primarily on private property but it is necessary occasionally to transport petroleum and

petroleum products over the public highways. The permits held by the partners are inadequate to fully authorize the operation of these vacuum tank trucks. Two public witnesses testified as to their company's respective need for the proposed service, which they described as efficient and adequate. The proof of financial ability is convincing. The Commission finds that the public convenience and necessity require the proposed petroleum irregular route carrier service, and that applicants have adequate financial ability and experience to carry on this operation satisfactorily. They propose to assess rates on an hourly basis as prescribed in the Southwestern Motor Tariff Bureau Vacuum and Pump Tank Truck Tariff No. 7, Cal. P.U.C. No. 16.

Kyle O. Mayes and Jimmie C. Mayes, copartners doing business as Kyle O. Mayes Co., 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.

#### ORDER

Application as above entitled having been filed, public hearing having been held thereon, the Commission being fully advised in the premises, and hereby finding 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 Kyle O. Mayes and Jimmie C. Mayes, copartners doing business as Kyle O. Mayes Co., authorizing the establishment and operation of service as a petroleum irregular route carrier, for the transportation of petroleum and petroleum products in vacuum tank trucks between all points and places within the counties of Los Angeles and Orange.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty days after the effective date hereof.
- (b) Within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and the public, applicants shall establish the service herein authorized and shall file and concurrently make effective appropriate tariffs naming rates, rules and regulations on an hourly basis.

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

Dated at San Francisco, California, this 3rd day of May, 1955.

*John Mitchell*  
 President  
*Justice J. Casner*  
*Paul Winters*  
*William D. Kelly*

Commissioners