

**ORIGINAL**

Decision No. 51645

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 THOMAS NEELY, doing business as )  
 NEELY'S VACUUM TRUCK SERVICE for a )  
 Certificate of Public Convenience )  
 and Necessity as a Petroleum Irregular )  
 Route Carrier to operate a vacuum )  
 tank truck service within a radius )  
 of 50 miles from base of operations, )  
 with emergency service to all areas )  
 in the State of California being )  
 developed or explored for oil. )

Application No. 36832  
 (As Amended)

Arthur C. Miller for applicant.

**O P I N I O N**

By this application filed March 25, 1955, Thomas Neely, doing business as Neely's Vacuum Truck Service, seeks a certificate of public convenience and necessity authorizing him to transport petroleum and petroleum products in pump and vacuum tank trucks, as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code. The territory requested to be served is the area within fifty miles of Newhall. Authority to render emergency service beyond said area is also requested.

A public hearing was held before Examiner Rowe on June 6, 1955, in Newhall, California. Evidence was adduced and the matter was duly submitted for decision. No one appeared to protest granting the application although all interested parties were duly notified of the application and hearing thereon.

Applicant has two pieces of equipment, one a fifty barrel capacity vacuum tank truck and one an eighty barrel capacity tank truck with an auxiliary pump attached. This latter tank truck is

used only as an incident to his business of vacuum tank service where a driller needs more oil or water than can be moved in a vacuum tank truck. Applicant proposes to charge for the service on an hourly basis.

At the hearing applicant, with the permission of the hearing examiner, amended his application to include a revised balance sheet. This document shows that the applicant has a net worth of \$29,734.11. He has had three years experience in this type of operation.

Three public witnesses representing three companies engaged in oil well drilling and maintenance appeared in support of the application. Applicant testified that he had received many requests for this service from other such companies. No evidence was adduced to justify granting the request for authority to serve beyond the area of a fifty mile radius of Newhall, on an emergency basis. No authority will be granted to operate beyond the primary area of fifty miles from Newhall. Applicant presently possesses a radial highway common carrier permit.

The Commission finds that public convenience and necessity require that applicant Thomas Neely institute and perform service as a petroleum irregular route carrier within a radius of fifty air miles from Newhall, California, using only vacuum or pump tank truck equipment.

Said Thomas Neely 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, such rights 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.

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 Thomas Neely authorizing the establishment and operation of 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 in vacuum and pump trucks between all points and places within a radius of fifty miles from Newhall, California.

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

- (a) Applicant 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 upon not less than five days' notice to the Commission and the public, applicant 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 5<sup>th</sup> day of July, 1955.

Justin J. Cisneros  
President  
Robert L. Entenman  
Markus A. Holm  
P. H. Hodge  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.