

ORIGINALDecision No. 51646

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 A. L. NICKSON, an individual doing)
 business as NICKSON'S, for a certificate)
 of public convenience and necessity as)
 a Petroleum Irregular Route Carrier) Application No. 36862
 authorizing him to operate a vacuum)
 tank truck service between points and)
 places within fifty (50) miles of Santa)
 Maria, California, pursuant to Section)
 1061-1073 of the Public Utilities Code.)

Glanz & Russell by Theodore Russell for applicant.
Marvin Handler for Speeds Oil Tool Service and B and O
 Service Company; George Finucane for Richards Trucking
 Company, protestants.

O P I N I O N

By this application filed April 5, 1955, A. L. Nickson seeks a certificate of public convenience and necessity authorizing him to establish and operate 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 tank trucks between all points and places within a radius of fifty miles of Santa Maria, California. Applicant proposes to charge for such services on an hourly basis.

Public hearing was held before Examiner Rowe in Santa Maria, California, on June 7, 1955, at which time evidence both oral and documentary was adduced and the matter duly submitted.

Applicant for the last ten years has carried on an engine rebuilding business in this area. He owns a vacuum tank truck of 43-barrel capacity, which is also equipped with a Roper three-inch pump and a high-pressure pump. Since March 1, 1955, when he acquired

this equipment, he has operated under his radial permit and has transported petroleum and petroleum products only over private property. Applicant has had extensive experience in drilling and oil well maintenance operations and is qualified to perform the proposed service. His balance sheet as of April 30, 1955 indicates a net worth of \$28,419.51.

Two public witnesses appeared in support of the application and testified that the proposed service was needed in the Santa Maria area. Applicant who has long been associated with oil well drilling and maintenance testified that there was a public need for the service.

The three protestants submitted evidence that their equipment has not been fully used during the last few months. They also stated that business had recently fallen off in this area. An exhibit submitted by one of the protestants to support this latter assertion showed that the volume of his business had actually increased although because of an increase in the number of his trucks each had not been used as much as previously.

These witnesses stated that in their opinion the entry of applicant into this field would probably take business from the protestants. There was no evidence, however, that protestants would be required to curtail any service to the public because of the fact that applicant would become a competitor. The Commission finds that public convenience and necessity require that applicant institute and perform service as requested as a petroleum irregular route carrier serving all points and places within a radius of fifty miles of Santa Maria, California.

Said A. L. Nickson 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.

O R D E R

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 A. L. Nickson 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 tank trucks between all points and places within a radius of fifty miles of Santa Maria, 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 on 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 5th day of July, 1955.

Justin J. Calver
President

Donald W. Terrell

William J. Bohy

P. Hardy

Commissioners

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