

ORIGINAL

Decision No. 51967

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HOMER L. MYERS for a Certificate of)
Public Convenience and Necessity to)
operate vacuum tank trucks as a)
highway Common Carrier in the)
Counties of Los Angeles, Ventura,)
and Orange, in the State of)
California.)

Application No. 37094

Homer L. Myers, in propria persona.
Grove C. Lautzenhiser, for Orange
Empire Truck Lines, Inc.,
protestant.

O P I N I O N

By the application herein, filed on July 2, 1955,
Homer L. Myers seeks authority as a petroleum irregular route
(1) carrier as defined in Section 214 of the Public Utilities
Code, to transport crude oil and other similar
commodities for oil fields and refineries at different places
in the Counties of Los Angeles and Orange, State of California.
He now renders, and has rendered, the type of service for which
he herein seeks a certificate pursuant to a radial highway
common carrier permit and a petroleum contract carrier permit
issued by this Commission. He has, and will use if certificated,

(1) The applicant requested a certificate as a highway common carrier but agreed that he seeks a certificate as a petroleum irregular route carrier.

the following equipment:

- (1) One 30 barrel capacity vacuum tank truck.
- (2) Two 31 barrel capacity vacuum tank trucks.

Two of the trucks are also equipped with mechanical pumps.

A public hearing was held in Los Angeles on August 2, 1955, before Examiner Kent C. Rogers, evidence was presented and the matter was submitted. It is ready for decision.

A representative of Orange Empire Truck Lines, Inc., a petroleum irregular route carrier, appeared at the hearing, and it was stipulated that applicant's service will be limited to the transportation of petroleum and petroleum products in vacuum-type and pump-type tank trucks or tank trailers only and in connection with and incidental to the drilling, maintenance or reconditioning of oil wells, and the repair of pipe line breaks, between points and places in Los Angeles and Orange Counties only.

The applicant stated that his rates will be \$7.49 per hour for each truck referred to above, calculated from the time the truck leaves his yard until it returns thereto, with a minimum charge for one hour of service. He further stated that his services consist of the type of operations included in the foregoing stipulation; that his service has been and will be on call; that he does not and will not operate over regular routes; that only a small portion of his transportation is on the public highways; and that he has been rendering the type of service herein proposed in Los Angeles and Orange Counties since 1943 for numerous oil producers.

Representatives of two oil producers in Los Angeles County testified that the company each represented uses applicant's services and one of them testified that his company has used applicant's services for eight years. Both witnesses stated that the applicant renders a good and dependable service which their companies need.

Upon the evidence of record herein, we find that public convenience and necessity require that applicant establish and operate a service as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Homer L. Myers 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 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 Homer L. Myers, 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 in vacuum-type and pump-type tank trucks and trailers only and in connection with and incidental to drilling, maintenance, or reconditioning of oil wells, or repair of pipe line breaks, between all points and places in Los Angeles and Orange Counties.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe 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 30th day of AUGUST, 1955.

[Signature] President
[Signature]
[Signature]
[Signature]

 Commissioners

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