

Decision No. 52875**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ELMER BARNES and L. B. BARNES,
 co-partners, doing business as
 BARNES VACUUM TRUCK SERVICE,
 for a certificate of public con-
 venience and necessity to operate
 as a petroleum irregular route
 carrier.

Application No. 37664.

Elmer Barnes and L. B. Barnes, in propria persona.

Glanz and Russell, by R. Y. Schureman, for Routh
 Transportation, Mike Schager, Inc., and Fix and Brain
 Vacuum Tank Service, protestants.

O P I N I O N

By the application herein, filed with this Commission on January 17, 1956, Elmer Barnes and L. B. Barnes, copartners, doing business as Barnes Vacuum Truck Service, request a certificate of public convenience and necessity as a petroleum irregular route carrier for the transportation of petroleum products in tank trucks and tank trailers between points within a radius of fifty miles of the City of Long Beach, California.

The application was originally noticed for hearing in Long Beach on February 27, 1956, before Examiner Kent C. Rogers. On that date the matter was called and continued to March 5, 1956, in Long Beach. At the latter time and place the matter was partially heard and continued to March 13, 1956, in Los Angeles, to permit applicants to produce witnesses concerning the public need

for the proposed services. At the latter time and place applicant L. B. Barnes appeared and advised the examiner that the applicants have been unable to secure any public witnesses due to their reluctance to take time off from business. He requested that the application be submitted. The matter was thereupon submitted.

Elmer Barnes testified concerning the following matters:

Barnes Vacuum Truck Service was organized in October 1955, at which time the partners acquired a 33-barrel vacuum truck mounted on a 1950 Dodge chassis for a total price of \$3,500. The partners paid \$1,000 on the equipment at the time of purchase and agreed to pay \$220 per month on the balance. On March 1, 1956, they owed a balance of \$1,280 on this equipment. The partners' operations are conducted out of their home in Long Beach, California. They now charge \$7.49 per hour for services using the said equipment, but will charge \$8.56 per hour in the future if that is the going rate. All charges will be computed from the time the equipment leaves the yard until the return thereto, with a minimum charge for one hour. As of March 1, 1956, the partnership had net assets valued by the partners at \$4,570 after deducting the \$1,280 balance due on the Dodge truck. The partnership owed no other debts (Exhibit No. 1). Elmer Barnes was employed by various tank truck operators between 1946 and 1949, including Routh Transportation, R. J. Baker and Superior Vacuum Truck Service. The witness stated that applicants desire the certificate in order to make a living and that he believes several similar operators in Long Beach do not have certificates of public convenience and necessity. The applicants desire to solicit traffic from the general public.

They have carried nonpetroleum products for the La Habra Mud Disposal, but have carried no petroleum products to date. They have had one request to clean oil tanks by the Sunset Oil Company, but did not perform services for it. Applicant L. B. Barnes testified that the matters stated by Elmer Barnes were true. In addition, he said that the partners have a 1947 Ford truck with a 31-barrel tank thereon for which they charge \$7.49 per hour, but that they will charge the going rate in Long Beach if they get a certificate.

The vice president of Routh Transportation testified to the following:

Routh Transportation has authority to transport petroleum and petroleum products in tank trucks and tank trailers between all points and places in California (Decision No. 44479, dated June 27, 1950, in Application No. 30957), and to transport certain oil base drilling fluids, waste oils, sludges, and other commodities in vacuum-tank vehicles between all points in California (Decision No. 51455, dated May 10, 1955, in Application No. 36547). To render these services it owns or leases 39 pieces of equipment, including 19 tank trucks or trailers with capacities varying from 35 barrels to 107 barrels (Exhibit No. 2). This company does the type of work applicants seek to perform and its equipment has only been used 60 percent of the time in the past few months. It is now rendering service for applicants' customer, La Habra Mud Disposal.

The vice president of Mike Schager company testified to the following:

L. A. (Mike) Schager has authority as a petroleum irregular route carrier to transport petroleum and petroleum products, drilling fluids, oils 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 or 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 (Decision No. 50951, dated January 4, 1955, in Application No. 35895).

Ninety percent of this protestant's business consists of cleaning oil sumps and related activities. It has nine pieces of equipment with capacities varying from 30 barrels to 100 barrels. It now has at least eight active competitors (Exhibit No. 3).

Mr. Brain, of Fix and Brain Vacuum Truck Services, testified as follows:

This company was formed and commenced operations in 1952. It has filed an application for a certificate as a petroleum irregular route carrier (Application No. 36451, which is prior in time of filing to the herein application), that the protestant performs and will perform services similar to those proposed by the applicants herein; that it has nine pieces of tank truck equipment varying from 31 barrels to 100 barrels in capacity; that

the protestant serves and proposes to serve the territory applicant proposes to serve; that the company never uses over 40 percent of its equipment at any one time; and that this is in part due to the fact that the producers desire certain sizes of equipment.

Upon the foregoing evidence the Commission is of the opinion, and finds, that there is no showing of any public need for the services of the applicants, and there is no showing that the public convenience will be met by applicant's services, and, therefore, the application will be denied.

O R D E R

There having been a public hearing on the application herein, evidence having been presented at the hearing, the matter having been submitted and the Commission being fully advised in the premises and having found that public convenience and necessity do not require that Elmer Barnes and L. B. Barnes be granted authority to operate a service as a petroleum irregular route carrier,

IT IS HEREBY ORDERED that Application No. 37664 of Elmer Barnes and L. B. Barnes for a certificate of public

convenience and necessity to operate as a petroleum irregular route carrier be, and it hereby is, denied.

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

Dated at San Francisco, California, this 10th day of April, 1956.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.