

ORIGINAL

Decision No. 53577

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

E. J. MORIARTY, doing business as a)	
sole proprietor under the firm name)	
and style of E. J. MORIARTY TRUCKING)	
CO., for a certificate of public con-)	Application No. 37916
venience and necessity to operate vacuum)	
tank trucks as a petroleum irregular)	
route carrier in the State of California.)	

Burton and Gauldin, by R. J. Gauldin,
for applicant.

O P I N I O N

By the application herein, filed on April 6, 1956, E. J. Moriarty, doing business as E. J. Moriarty Trucking Co., seeks a certificate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, to transport petroleum and petroleum products in vacuum tank trucks and trailers between all points and places in the Counties of Los Angeles, Orange, Ventura and Riverside, State of California. He has radial highway common carrier, petroleum contract carrier, and city carrier permits issued by this Commission. He has two 45-barrel tank trucks, two 62-barrel tank trailers, one 100-barrel tank truck, and one tractor. Each of the tanks is equipped with a vacuum pump.

A public hearing on the application was held in Los Angeles on July 6, 1956, before Examiner Kent C. Rogers. Prior to the hearing notice thereof was mailed to trucking associations,

tariff agents, carriers and individuals deemed by this Commission to have an interest in the matter. There were no protests.

The applicant stated that he will become a party to and will assess rates as prescribed in the Southwestern Motor Tariff Bureau Local Vacuum and Pump Tank Truck Tariff No. 7, Cal. P.U.C. No. 16. He further stated that for about ten years he has been engaged in the business of operating equipment specially constructed and adapted to the performance of cleaning out sumps or tanks adjacent to oil wells, the transportation of drilling fluids, prepared drilling mud, and waste materials, and the transportation of oil for application to roads and driveways. On occasion, he said, he also transports pure crude oil. This service is not rendered nor applicant's trucks operated via any fixed or regular routes, but service is rendered between any points and via any routes required to perform the job he has been requested to perform. Service is and will be rendered for any oil producer desiring service in the proposed service area.

Applicant is financially sound and is operating at a profit (Exhibit A on the application). Applicant has Petroleum Contract Carrier Permit No. 19-43153. He stipulated that this permit may be cancelled.

Four oil producing companies have advised the Commission that the type of service he renders is necessary to the conduct of their businesses.

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.

E. J. Moriarty is hereby placed on 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 is granted to E. J. Moriarty, doing business as Moriarty Trucking Co., authorizing him to establish and operate 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 or tank trailers only between the points set forth in Appendix A attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, there shall be compliance with the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.
- (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 file in triplicate and concurrently make effective tariffs and time schedules satisfactory to the Commission.

IT IS FURTHER ORDERED that concurrently with the establishment of service pursuant to the certificate herein granted, Petroleum Contract Carrier Permit No. 19-43153 issued to E. J. Moriarty be, and it is hereby canceled.

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

Dated at San Francisco, California, this 7th day of August, 1956.

John E. Mitchell
President
Justin J. Calum
Wm. J. Boyle
R. Hardy

Commissioners

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

Appendix A

E. J. Moriarty, doing business
as E. J. Moriarty Trucking Co.

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E. J. Moriarty, doing business as E. J. Moriarty Trucking Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport petroleum and petroleum products in vacuum-type and pump-type tank trucks or tank trailers only:

To, from and between any and all points and places in the Counties of Los Angeles, Orange, Ventura and Riverside, State of California.

End of Appendix A

Issued by California Public Utilities Commission.

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