

ORIGINAL

Decision No. 71715

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 EDMOUR L. PELLETIER, an individual)
 doing business as IDYLLWILD FREIGHT)
 LINE, for an in lieu certificate of)
 public convenience and necessity as)
 a highway common carrier of general)
 commodities, with some exceptions,)
 between various points and places)
 in Riverside County, pursuant to)
 Sections 1063-1064 of the Califor-)
 nia Public Utilities Code.)

Application No. 48599
(Filed July 5, 1966)

O P I N I O N

Applicant presently is authorized to transport general commodity freight between Hemet and Idyllwild via Keen Camp, serving intermediate points, pursuant to a certificate of public convenience and necessity originally issued in Decision No. 10733, dated July 20, 1922, and ultimately transferred to applicant by Decision No. 46052, dated August 7, 1951.

Applicant requests an in lieu certificate of public convenience and necessity authorizing him to transport general commodities, with the usual exceptions, between points in Riverside County as follows:

- (1) Between the City of Hemet and Pinyon Flats, serving all intermediate and off-route points within a lateral of 10 miles of State Highway 74.

- (2) Between the junction of Riverside County Highway R-1 with State Highway 74 (at Mountain Center), on the one hand, and on the other, the Twin Pines Ranch approximately eight (8) miles south of the City of Banning, serving all intermediate and off-route points within a lateral of 10 miles of Riverside County Highway R-1.
- (3) Between the junction of State Highway 71 with State Highway 74, on the one hand, and, on the other, Aguanga, serving all intermediate and off-route points within a lateral of 10 miles of State Highway 71.

The application was served in accordance with the Commission's procedural rules and no protests have been received.

Applicant presently holds a certificate of exemption issued to him by the Interstate Commerce Commission in Decision No. MC-117368, Sub-No. 1 EX, on December 3, 1959, pursuant to the provisions of Section 204(a)(4a) of the Interstate Commerce Act. Applicant proposes to operate in interstate or foreign commerce under the in lieu certificate of public convenience and necessity sought herein and to seek a certificate of exemption from the Interstate Commerce Commission under the provisions of Section 204(a)(4a) of the Interstate Commerce Act with respect to such extended service. In the event that the Interstate Commerce Commission should, by its final order, deny applicant its certificate of exemption from interstate or foreign commerce service provided under the proposed in lieu certificate, applicant then proposes to seek a certificate of registration pursuant to the provisions of Section 206(a)(6) of the Interstate Commerce Act.

Applicant presently provides a scheduled service between points on his presently authorized route of not less than two schedules per week. Applicant proposes to provide such regularly scheduled service with respect to the extension of service sought in the within application. Applicant does now provide and will provide in the future additional schedules to meet the needs of the shipping public, especially during the summer season. Applicant alleges that in recent years the area which he proposes to serve has shown an increase in development that requires the services of a regularly scheduled highway common carrier.

Applicant has published rates and charges with respect to the general commodities which he now transports between those points which he now serves. In connection with the proposed extended service, applicant proposes to establish rates at substantially the same minimum charges now in effect and to establish charges for points not now served based primarily upon a mileage adjustment of his presently established rates and charges to reflect the additional distance traversed.

Applicant operates a 1958 GMC truck to provide his presently authorized service. Applicant will continue to operate said truck in the extended highway common carrier service and will add additional units of equipment as required.

Applicant's financial statement shows total assets of \$2,019.68.

Upon consideration, the Commission finds that:

1. A public hearing is not necessary.

2. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.

3. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

4. Public convenience and necessity require that applicant be issued either a certificate of exemption or a certificate of registration authorizing him to provide motor carrier service under the in lieu certificate issued herein in interstate or foreign commerce.

Edmour L. Pelletier, an individual, doing business as Idyllwild Freight Line, 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Edmour L. Pelletier, an individual, doing business as Idyllwild Freight Line, authorizing him to operate as a highway

common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. 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. Applicant is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.
- (e) Applicant shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Edmour L. Pelletier, an individual, doing business as Idyllwild Freight Line, and presently possessed by him, which certificates are hereby revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

4. Applicant is authorized to obtain either a certificate of exemption or a certificate of registration from the Interstate Commerce Commission for operations in interstate and foreign commerce as indicated in Appendix B attached hereto.

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

Dated at San Francisco, California, this 20th day of DECEMBER, 1966

W. E. ... President
Frederick B. Halaloff
...

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

EDMOUR L. PELLETIER
(an individual)

Edmour L. Pelletier, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities:

1. Between all points and places on the following highways, including the off-route points within a lateral of 10 miles of said highways.
 - (a) State Highway 74 between Homet and Pinyon Flats, inclusive;
 - (b) Riverside County Highway R-1 between the junction of said highway with State Highway 74 and Twin Pines Ranch (approximately 8 miles south of Banning) inclusive, and
 - (c) State Highway 71 between the junction of said highway with State Highway 74 and Aguanga.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.

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4. Commodities requiring the use of special refrigeration or temperature control in specially designed or constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Commodities likely to contaminate or damage other freight.
10. Property of extraordinary value as set forth in Rule 780 of National Motor Freight Classification A-9, F. G. Freund, Issuing Officer.
11. Explosives as described in American Trucking Associations, Inc., Agent, Motor Carrier's Explosives and Dangerous Articles Tariff 12.

End of Appendix A

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EDMOUR L. PELLETIER
(an individual)

Notice of the filing of this application and of the desire of the applicant to engage in transportation in interstate and foreign commerce having been given to interested persons by publication in the Federal Register of August 10, 1966, for a certificate of registration, and in the Federal Register of August 25, 1966, for a certificate of exemption, reasonable opportunity having been given to interested persons to be heard, the authority hereinafter defined not exceeding the intrastate authority of applicant, and the Public Utilities Commission of California having found that public convenience and necessity so require, therefore,

APPLICANT IS AUTHORIZED to register authority with, or seek a certificate of exemption from, the Interstate Commerce Commission for operations as a motor common carrier of general commodities, subject to the exceptions listed in Appendix A of this decision, between the points designated in Appendix A in interstate and foreign commerce.

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