

ORIGINAL

Decision No. 52993

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 STEPHEN VAN TROJEN, an individual)
 doing business as ACTION EXPRESS,)
 for a certificate of public conven-)
 ience and necessity authorizing)
 transportation of specified commod-)
 ities between certain California)
 points.)

Application No. 36252

O P I N I O N

Stephen Van Trojen is engaged in the transportation of property in California pursuant to permits issued by this Commission.

Applicant seeks an order authorizing him to conduct service as a highway common carrier for the transportation of office furniture, office furnishings and equipment between San Francisco and San Jose; San Francisco, on the one hand, and, on the other, Oakland and points on State Highway 17 between Oakland and Los Gatos; and San Francisco, on the one hand, and, on the other, points on U. S. Highway 40 between Oakland and Sacramento, including intermediate and off-route points.

Notice of filing of the application was given all common carriers subject to the jurisdiction of this Commission.

This application was filed pursuant to Decision No. 50448, in Case No. 5478, dated August 17, 1954. In that decision, the Commission enunciated a policy under which it may consider operation as a highway permit carrier up to and including September 10, 1953, as evidence of public convenience and necessity, if it appears that such operation may be found to constitute common carriage under the terms of the Nolan decision (Nolan v. Public Utilities Commission,

41 C (2d) 392). The allegations of the application and the representations filed in this matter indicate, however, and the Commission finds that as of September 10, 1953, applicant was conducting his operations within the scope of the permits heretofore issued by this Commission. Such operations not having constituted highway common carriage, the sought certificate of public convenience and necessity is not a requisite for continuance of applicant's operations as conducted on the said date; and the application will be denied.

The applicant is hereby placed on notice that the Commission, by this decision, makes no finding and expresses no opinion as to whether applicant has or has not been conducting his operations within the scope of his permitted authority since September 10, 1953; and that the provisions of Section 1063 of the Public Utilities Code will be strictly enforced.

O R D E R

The Commission has considered the application and representations filed herein, Now Therefore

IT IS ORDERED that Application No. 36252 is denied.

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

Dated at San Francisco, California, this 1st day of May, 1956.

Walter E. Nichols
President
Arthur J. Casper
Donald J. [unclear]
[unclear]
Commissioners