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Decision No. 53415

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Application of JACK W. HOGE to operate a highway common carrier service.	))))	Application No. 36265

O P I N I O N

Jack W. Hoge is engaged in the transportation of property in California pursuant to a permit issued by this Commission.

Applicant seeks an order authorizing him to conduct service as a highway common carrier for the transportation of general commodities between Bakersfield, Tehachapi and Mojave and intermediate 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 permit 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. 36265 is denied.

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

Dated at San Francisco, California, this 13th day of July, 1956.

President

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.