

Decision No. 54583

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ELMER RANDALL, an individual, doing )  
business as TRUCK TRANSPORT, for a )  
certificate of public convenience )  
and necessity for the transportation )  
of property by motor truck, to include )  
service to and from points herein set )  
forth. )

Application No. 36271

Donald Murchison, for applicant.  
Frederick Mielke, for Delta Lines, Inc.;  
H. J. Bischoff, for Southern California  
Freight Lines, Southern California Freight  
Forwarders, California Motor Express, Ltd., California  
Motor Transport Co., Ltd., Coast Line Truck Service,  
Inc., and Western Truck Lines; and A. R. Reader,  
for Desert Express; protestants.

O P I N I O N

Elmer Randall is engaged in the transportation of property in California pursuant to permits issued by this Commission.

Elmer Randall seeks an order authorizing him to conduct service as a highway common carrier for the transportation of general commodities, with certain exceptions, generally between Los Angeles Basin Territory, the Oakland area, the Sacramento area, San Bernardino and Riverside, including off-route and intermediate points.

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

A public hearing was held at Los Angeles on December 4, 1956 before Examiner Carl Silverhart.

Testimony as to the operations of protestants Southern California Freight Lines, Southern California Freight Forwarders

and Coast Line Truck Service was in evidence. The other protestants did not present any testimony but engaged in cross-examination of applicant, as did protestants last above named.

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, the representations filed in this matter and the evidence adduced at the hearing 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

A public hearing having been held and based upon the evidence adduced therein and the application and representations filed herein, Now Therefore,

IT IS ORDERED that Application No. 36271 is denied.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of February, 1957.

E. Mitchell  
President

Paul H. [unclear]

[unclear]

[unclear]

Commissioners

Commissioner.....Rox Barry..... being necessarily absent, did not participate in the disposition of this proceeding.