

ORIGINALDecision No. 55021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 FEDERAL REFRIGERATED TRANSPORTATION CO.,)
 a corporation, for a certificate of)
 public convenience and necessity to)
 operate as a highway common carrier of) Application No. 36475
 special commodities with some exceptions)
 between various points and places in)
 California pursuant to Public Utilities)
 Code Sections 1063-1064.)

Glanz & Russell by R. Y. Schureman, for
 applicant.
James H. Williams, for Southern California
 Freight Lines, and A. R. Reader, for Desert
 Express, protestants.
Lloyd R. Guerra, for Western Truck Lines, Ltd.,
 interested party.

O P I N I O N

Federal Refrigerated Transportation Co. is engaged in the transportation of property in California pursuant to permits issued by this Commission.

Applicant seeks an order authorizing it to conduct service as a highway common carrier for the transportation of specifically named commodities between various points in northern, central and southern California.

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 April 18, 1957 before Examiner Carl Silverhart.

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 its 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 its operations within the scope of its permitted authority since September 10, 1953; and that the provisions of Section 1063 of the Public Utilities Code will be strictly enforced.

ORDER

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

IT IS ORDERED that Application No. 36475 is denied.

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

Dated at San Francisco, California, this 21st day of May, 1957.

[Signature]
President

[Signature]

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Commissioners