

Decision No. 55944

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
rates, charges and practices of)
COLLIER TRANSPORTATION COMPANY,)
a corporation.)

Case No. 5874

ORDER DENYING REHEARING

The respondent having filed on August 16, 1957 a petition for rehearing and reconsideration of Decision No. 55337 issued on July 30, 1957 in the above-entitled proceeding and the Commission having considered said petition and being of the opinion that rehearing should be denied, but that said opinion should be modified, IT IS ORDERED that the following language to be found in the opinion herein under the heading "Leases" and constituting the third and fourth paragraphs thereof, be deleted as not being supported by the record herein:

"Notwithstanding the fact that the Commission is not passing upon the validity of the leases in question, it does appear that Section 851 of the Public Utilities Code was violated with respect to the leases. Section 851 provides that no public utility shall lease any of its property necessary and useful in the performance of its duties to the public without first having secured an order from the Commission authorizing it to do so. While the Section goes on to provide that the leasing of property by a public utility shall be conclusively presumed to be of property which is not useful or necessary in the performance of its duties to the public as to any lessee dealing with such property in good faith for value, it does not provide that such conclusive presumption shall apply as to the public utility.

"Based upon the evidence in the record, the Commission finds that the equipment leased by respondent is necessary and useful in the performance of its duties to the public. Therefore, in view of its conclusion that respondent is a highway common carrier, the Commission finds and concludes that respondent violated Section 851 of the Public Utilities Code by leasing property necessary or useful in the performance of its duties to the public without obtaining the Commission's prior approval."

Said opinion is further modified by deleting from the "conclusions" therein any reference to Public Utilities Code Section 851.

As hereinabove modified the Decision No. 55337 is affirmed and the petition for rehearing is denied.

The Secretary is directed to cause a certified copy of this order to be mailed to each appearance in the above-entitled proceeding.

Dated at San Francisco, California, this 10th day of December, 1957.

[Signature]
President
[Signature]
[Signature]
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Commissioners