

ORIGINAL

Decision No. 56262

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
W. R. WEBSTER and W. O. WEBSTER,)
doing business as, WEBSTER TANK)
TRUCK SERVICE, to operate a highway)
common carrier service.)
_____)

Application No. 36026
(Amended)

O P I N I O N

W. R. Webster and W. O. Webster, doing business as Webster Tank Truck Service, are engaged in the transportation of property in California pursuant to permits issued by this Commission. They seek an order authorizing them to conduct service as a highway common carrier for the transportation of cement between various points in the State of California.

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

Upon consideration of the allegations of the amended application and the representations filed pursuant to the above-mentioned notice, the Commission finds that a public hearing is not necessary in this matter.

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 (2nd) 392). The allegations of the amended application and the representations filed in this matter 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 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.

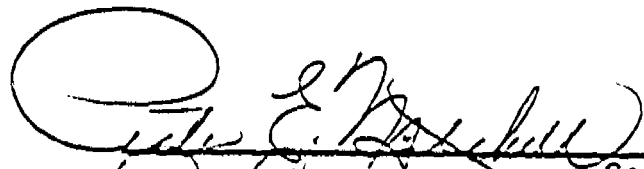
O R D E R

The Commission having duly considered the application and representations filed herein, now therefore,

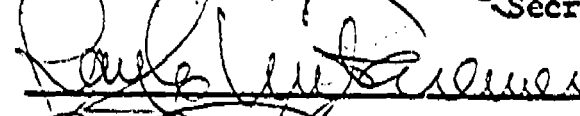
IT IS ORDERED that Application No. 36026 is denied.

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


Dated at San Francisco, California, this 18th day of FEBRUARY, 1958.



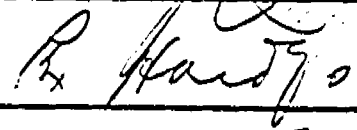
Secretary




Commissioner



Commissioner



Commissioner



Commissioners