

ORIGINALDecision No. 50548

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BEN JOHNSON, to operate a highway)
 common carrier service.)

Application No. 36033
 (Amended)

O P I N I O N

Ben Johnson 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 other than ordinary livestock 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 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,

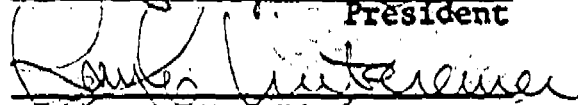
IT IS ORDERED that Application No. 36033 is denied.

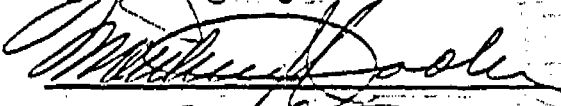
The effective date of this order shall be ninety days

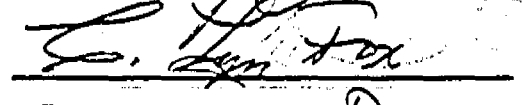
after the date hereof.


Dated at San Francisco, California, this 15th
day of April, 1958.



President








Commissioners