

ORIGINALDecision No. 59932

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of HOAGLAND TRANSPORT SERVICE, INC.,
a corporation, for a certificate of
public convenience and necessity
authorizing transportation of property
as a highway common carrier between
various points in California.

Application No. 36110
(Amended)

Ralph T. Close, for Western Truck Lines, Ltd.,
and Feat, Baraty & Hassard by Gus L. Baraty,
for Santa Fe Transportation Co., and Atchison
Topeka and Santa Fe Railway Company, protestants.

Graham, James & Rolph, by Boris H. Lakusta for
Hoagland Transport Service, Inc., applicant.

O P I N I O N

Hoagland Transport Service, Inc., 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 commodities having unusual size, weight or bulk, and related commodities, 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. A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis at San Francisco on January 7, 1960. At the hearing applicant sought leave to amend the application by further restricting the request for rights sought herein. Permission to do so was granted. In the light of said amendment protestant Western Truck Lines, Ltd., asked for leave to withdraw as a protestant and this request was granted.

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 evidence of record indicates, 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.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED that Application No. 36110 is denied.

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

Dated at San Francisco, California, this 12th
day of April, 1960.

Lawrence W. Page
President
John E. Mitchell
W. H. [unclear]
S. [unclear]
Theodore J. Jenner
Commissioners