

ORIGINAL

Decision No. 67112

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Overnite Motor Express, a corporation,)

Complainant,)

vs.)

Case No. 7298

Ned C. Steele and John E. Thomas, copartners, doing business as REEL EXPRESS,)

Defendant.)

Graham, James & Rolph, by Myron Bull, Jr., for defendants.
B. A. Peeters, for the Commission staff.

O P I N I O N

By order dated July 30, 1963, the Commission ordered Case No. 7298 reopened for the purpose of determining whether respondent had complied with the order in Decision No. 64900.

It was ordered in Decision No. 64900 that Ned C. Steele and John E. Thomas, copartners, doing business as Reel Express, cease and desist from operating directly or indirectly or by any subterfuge or device any auto truck as a highway common carrier.

A public hearing was held before Commissioner Mitchell and Examiner Porter on November 7, 1963, on which date the matter was submitted subject to filing of briefs. A brief having been filed by the defendants, the matter is now ready for decision.

Ned C. Steele and John E. Thomas, copartners, doing business as Reel Express, have been issued a permit as a highway contract carrier and are engaged in transporting motion picture film and accessories.

The evidence shows that the effective date of Decision No. 64900 was March 22, 1962. Since that date, the defendants have entered into written contracts with all theaters served by them. Defendants have refused to serve theaters who would not enter into contracts. They have also refused to render service to theaters even though they were in the area where defendants were serving. Defendants restrict their operations to one truck and intend to limit the use of said truck to 75 percent of capacity. Defendants reiterate their position taken at the original hearing that theirs is a personalized service to theaters and they have no intention to dedicate their service to the public use.

After consideration the Commission finds that defendants are not operating as a highway common carrier.

ORDER

IT IS ORDERED that the order reopening for further hearing in Case No. 7298 is discontinued.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 21st day of April, 1964.

William B. Bennett
President
George E. Mitchell
Grant A. Key
Frederick B. Holdhoff

Commissioners

I dissent. In my view, defendants are operating, without a certificate, as a highway common carrier.

George E. Grover