

Holoboff

Absent

Missing

**ORIGINAL**

Decision No. 67336

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of ORIN THORKILDSEN, an individual	)	
of Montebello, for permits to operate	)	
as a Radial Highway Common Carrier	)	
(Appl. No. 19-54768-R), and Highway	)	Application No. 44021
Contract Carrier (Appl. No. 19-	)	
54769-R), for the transportation of	)	
general commodities, statewide,	)	
(File No. T-71,505).	)	

Orin Thorkildsen, in propria persona.  
Elinore Charles, for the Commission staff.

O P I N I O N

By this application, Orin Thorkildsen, an individual, seeks permits to operate as a radial highway common carrier and highway contract carrier for the transportation of general commodities between all points in California. The application was heard before Examiner Power at Los Angeles on February 15, 1962, when the matter was submitted.

Applicant was the only witness. He testified that he and his wife own all of the stock of Sterling Transit Company, Inc., (Sterling) a corporation which is certificated as a highway common carrier for the transportation of general commodities between

various points in California. He stated that the permits were desired in order that he, as an individual, might transport property for which Sterling is certificated at rates different from those in the Sterling tariff. The witness said: "And to be very frank, this is why I want the contract permit, so that I can work it as a subterfuge, the same as other common carriers are, and haul railroad freight on days that we need it .... And I believe that I should get this permit or that you should cancel the permits of other common carriers that are doing the same thing today that I propose today, only I am being truthful. That is the only difference."

It is fundamental that no common carrier may deviate from its tariff schedules (Sec. 494, Public Utilities Code); nor may any person or corporation transport, both as a highway common carrier and as a highway contract carrier, the same commodities between the same points (Sec. 354). A highway common carrier may not do through its alter ego that which it cannot lawfully do directly.<sup>1</sup>

The Commission finds that applicant and Sterling are the alter ego of each other. Inasmuch as applicant could not lawfully use the sought permits for the purpose intended, their issuance would serve no useful purpose. The Commission concludes, therefore, that the application should be denied.

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<sup>1</sup>

See Decision No. 50924 dated December 30, 1954, in Application No. 35927, Direct Delivery System, Ltd., 53 Cal.P.U.C. 761.

With respect to applicant's allegation that other common carriers are doing that which the law proscribes, the Commission will direct its Transportation Division staff to bring to the Commission's attention any evidence of such operations in order that the permits may be terminated or made subject to such additional terms and conditions as are required.

O R D E R

IT IS ORDERED that this application is hereby denied.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 3rd day of June, 1964.

*Alexander S. Burns*  
 President

*Robert E. [unclear]*

*Robert [unclear]*

*George T. [unclear]*

Commissioners

*I dissent. I will express my views later.*  
*Frederick B. Hildsloff*