

**ORIGINAL**

Decision No. 67603

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of JAMES E. POTTER, an individual )  
doing business as POTTER TRUCKING )  
COMPANY, to sell, and LOM THOMPSON, )  
an individual doing business as )  
THOMPSON TRUCK LINES, to buy )  
operative rights. )

Application No. 41056

ORDER NUNC PRO TUNC

On April 21, 1964, applicant filed a petition seeking an ex parte, nunc pro tunc order to correct a clerical error in Decision No. 60062 dated May 9, 1960 and repeated in Decision No. 60339 dated June 28, 1960. The verified petition avers that the error was not discovered until April of 1964.

The record discloses that Application No. 41056 was filed on April 23, 1959. It requested authority for James Potter to sell his highway common carrier operating rights to Lom Thompson, the applicant herein. The original application stated:

"The only territory served by Potter, as a highway common carrier, which Thompson is not presently authorized to serve as such a carrier are the points on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont and the Riverside-Imperial County line, which points generally are intermediate between the Imperial County points served by Thompson and the Los Angeles Territory."

On May 22, 1959, the Commission entered Decision No. 58505 which, in part, found:

"That the only territory served by Potter as a highway common carrier which Thompson is not now authorized to serve are the points on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont and the Riverside-Imperial County Line, which points generally are intermediate between the Imperial County Points served by Thompson and the Los Angeles Territory."

Decision No. 58505 concluded that "The application will be granted.", and the order authorized the parties to consummate the buy and sell agreement into which they had entered. The decision also required Thompson to file for an in lieu certificate of public convenience and necessity within ninety days.

Thompson filed a First Supplemental Application on October 1, 1959 in which he requested an in lieu certificate. The supplemental application stated:

" . . . Thus certificate No. 54645 authorized Thompson for the first time to serve all points and places on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont, on one hand, and the Riverside-Imperial County line, on the other hand."

On May 9, 1960, the Commission entered a Supplemental Opinion and Order in Decision No. 60062 which granted applicant an in lieu certificate. Appendix A, which delineated applicant's operating rights, in part, authorized him to serve "all points and places on U. S. Highways Nos. 60 and 99 between Beaumont and the Imperial County line . . ." It omitted the words and State Highway No. 111 (emphasis added) in the description. On June 28, 1960, the Commission entered a Supplemental Order in Decision No. 60339 which repeated the incomplete operating right description from Decision No. 60062.

It is clear from the foregoing that a clerical error occurred in Decision No. 60062 which was repeated in Decision No. 60339, and that applicant's operating authority should have indicated that he is authorized to serve points on State Highway No. 111 between Beaumont and the Imperial County Line. Applicant was unaware of the aforesaid omission and has served these points since 1960.

In the circumstances, a public hearing is not necessary in this matter and a nunc pro tunc order is appropriate.

Therefore, good cause appearing,

IT IS ORDERED that Page 1 of Appendix A of Decision No. 60062 dated May 9, 1960 is deleted and there is substituted, as of May 9, 1960, Second Revised Page 1 attached hereto and made a part hereof, and Page 1 of Appendix A of Decision No. 60339 (First Revised Page 1) dated June 28, 1960 is deleted and there is substituted, as of June 28, 1960, Second Revised Page 1 attached hereto and made a part hereof.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of July, 1964.

Frederick B. Holcomb  
President  
John J. [unclear]  
Walter [unclear]  
George T. Hoover  
William L. Bennett  
Commissioners

Appendix A  
(Decision No.  
60339)

THOMPSON TRUCK LINES

Second Revised Page 1  
Cancels  
First Revised Page 1

Lom Thompson, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to transport general commodities between the Los Angeles Territory, as described in Appendix B attached hereto, and the cities, towns or communities of Buena Park, Fullerton and Bellflower, on the one hand, and, on the other hand, all points and places on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont and the Imperial County Line and all that portion of Imperial County, California, which lies west of the main All American Canal to Coachella Valley.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses; viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock; viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.

Issued by California Public Utilities Commission.

Decision No. 67603, Application No. 41056.