

**ORIGINAL**Decision No. 75413

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 FRANK L. MOORE and JERRE R. MOORE, )  
 a co-partnership, doing business as )  
 MOORE TRUCK LINES for clarification )  
 and determination of operating )  
 authority, and for determination of )  
 Applicant's operation "between fixed )  
 termini and over a regular route." )

Application No. 50536  
 (Filed September 10, 1968)

Marquam C. George, for applicants.  
Graham & James, by Boris H. Lakusta and David  
J. Marchant, for Delta Lines, Inc., and  
Walkup's Merchants Express, protestants.  
William J. McNertney, Counsel, for the Commis-  
 sion staff.

ORDER OF DISMISSAL

Frank L. Moore and Jerre R. Moore, co-partners doing business as Moore Truck Lines, request a determination as to whether certain operations conducted during January 1968 from San Leandro to Auburn, San Leandro to Chico, San Leandro to Red Bluff, San Leandro to Redding, Oakland to Chico, Emeryville to Chico, and San Francisco to Chico exceeded the scope of their permitted authority.

A public hearing was held before Examiner Daly on February 4, 1969, at San Francisco and the matter was taken off calendar pending a ruling by the Commission on a motion to dismiss filed by staff counsel.

The staff contends that there is no provision in the Public Utilities Code, or in any other applicable source of law, authorizing the Commission to entertain a proceeding instituted for the sole purpose of determining whether or not a particular entity is conducting public utility operations or seeking a determination of its status as such.

Applicants rely upon Sections 1071 and 1072 of the Public Utilities Code which read as follows:

"1071. When a complaint has been filed with the commission alleging that any vehicle is being operated without a certificate of public convenience and necessity, as required by this part, or when the commission has reason to believe that this part is being violated, the commission shall investigate such operations and may, after a hearing make its order requiring the owner or operator of the vehicle to cease and desist from any operation in violation of this part. The commission shall enforce compliance with such order under the powers vested in the commission by law.

"1072. Whether or not any auto truck or other self-propelled vehicle is operated by a highway common carrier 'between fixed termini or over a regular route' within the meaning of this part is a question of fact, and the findings of the commission thereon are subject to review."

It is apparent that these sections relate to investigations by the Commission pursuant to either the filing of a formal complaint or a formal order of the Commission. There is no statutory provision authorizing the Commission to grant declaratory relief.

The motion to dismiss will be granted.

IT IS ORDERED that Application No. 50536 is dismissed.

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

Dated at San Francisco, California, this 11<sup>th</sup> day of MARCH, 1969.

*Augustine*  
President

*Archie R. Morrissey*

*J. P. ...*

*Thomas ...*  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.