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Decision No. 83306

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EDGAR R. CUDE, an individual, doing)
business as ACTIVE TRUCKING SERVICE,)
for a Certificate of Public Convenience)
and Necessity to operate as a highway)
common carrier for the transportation)
of property in intrastate and interstate)
and foreign commerce.)
_____)

Application No. 52790
(Filed July 30, 1971)

ORDER GRANTING REHEARING

By Decision No. 82748, dated April 16, 1974, we granted a certificate of public convenience and necessity to the above applicant involving the transportation of limited commodities in a limited area. Upon the timely filing of a petition for reconsideration and/or rehearing by protestants to this proceeding, the order in Decision No. 82748 was automatically suspended (Public Utilities Code, Section 1733). On June 18, 1974 we issued Decision No. 82994 whereby the suspension was continued pending further order.

After considering each and every allegation of petitioners we are of the opinion that good cause for rehearing has been made to appear. We take this opportunity to advise applicant that the certificated authority requested in Application No. 52790 may not be broad enough to encompass all commodities presently carried under its highway contract carrier permit. Thus, if the record on rehearing confirms our belief, based on the record heretofore established, that no factual distinction exists between commodities transported under applicant's highway contract carrier permit, Application No. 52790 must be amended to conform to the present operations. Absent such amendment, and assuming common carriage is established, applicant may not possess operating authority of any kind for the transportation of those commodities not included within the scope of the application.

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THEREFORE, IT IS ORDERED that rehearing of Decision No. 82748 is hereby granted, said rehearing to be heard before such Commissioner or Examiner and at such time and place as may hereafter be designated.

The Secretary is directed to cause appropriate notice of rehearing to be mailed at least ten (10) days before such rehearing.

Dated at San Francisco, California, this 20th day of AUGUST, 1974.

Vernon L. Sturgeon
President
William J. ...
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Commissioners