

BP

Decision No. 83706

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BIG PINE TRUCKING COMPANY, INC., a
corporation, for a certificate of
public convenience and necessity to
extend highway common carrier service.

Application No. 54033
(Filed May 15, 1973)

ORDER DENYING REHEARING
AND MODIFYING DECISION NO. 83506

A petition for rehearing of Decision No. 83506 having been filed by Reliable Delivery Service, Inc., and Victorville-Barstow Truck Line, the Commission having considered each and every allegation therein and being of the opinion that good cause for rehearing has not been made to appear, rehearing of Decision No. 83506 must be denied. There is, however, one matter that should be clarified.

Petitioners assert that applicant, Big Pine Trucking Company, Inc., conducted prior operations as a common carrier without first obtaining authority from the Commission. Consequently, it is urged that applicant's prior conduct should require denial of the sought operating authority. Decision No. 83506 contains no findings on this issue.

Upon review of the entire record, we are of the opinion that applicant has operated unlawfully in the past in that it has conducted operations as a common carrier without the required authority. However, we are further convinced, based on the record, that applicant's unlawful operations were not wilful, deliberate or flagrant. Finally, we believe that the public need, demonstrated in this proceeding, provides more than a sufficient basis to grant the sought certificate notwithstanding the prior illegal conduct.

THEREFORE IT IS ORDERED that:

1. Decision No. 83506 is hereby modified to include the following findings:

"16. Applicant has operated unlawfully in the past in that it has conducted operations as a common carrier without authority.

"17. Applicant's prior unlawful operations were not performed in a wilful, deliberate or flagrant manner.


"18. The public need for common carrier authority, as sought herein, overrides any need to deny the requested authority because of unlawful operations."

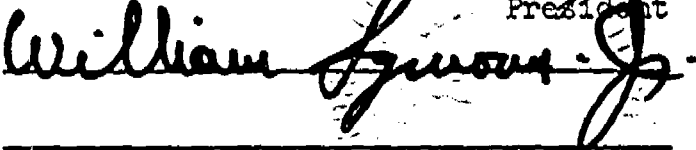
2. Rehearing of Decision No. 83506, as modified hereinabove, is hereby denied.

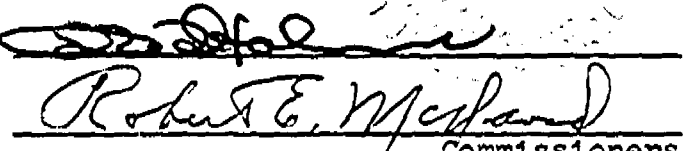
3. The suspension of Decision No. 83506, automatically imposed by Public Utilities Code, Section 1733, is hereby terminated.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 13th day of NOVEMBER, 1974.



President




Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.