

Decision No. 84038**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of PRESTO DELIVERY SERVICE, INC.,)	
a California corporation, for an)	
extension of its Certificate of)	Application No. 53360
Public Convenience and Necessity)	(Filed May 30, 1972)
to operate as a highway common)	
carrier for the transportation of)	
property in intrastate and inter-)	
state and foreign commerce.)	

ORDER DENYING REHEARING AND
MODIFYING DECISION NO. 83726.

By Decision No. 83726, issued November 19, 1974, we granted an in lieu certificate of public convenience and necessity to Presto Delivery Service, Inc., which extended its common carrier certificate authority to points between the Los Angeles Basin Territory and the San Diego Territory, together with certain intermediate points.

On November 29, 1974, City Freight Lines, G & H Transportation, Inc., Griley Freightlines and Qwikway Trucking Co., protestants to the application, filed a petition for reconsideration and rehearing of Decision No. 83726. In accordance with Section 1733 of the Public Utilities Code, the timely filing of this petition automatically suspended the order in Decision No. 83726.

Petitioners allege error in numerous respects with regard to the issues resolved in Decision No. 83726. After considering each and every allegation of petitioners, we are of the opinion that good cause for rehearing has not been made to appear. However, one argument made by petitioners does merit discussion.

Petitioners allege that the decision "... fails to come to grips with applicant's prior unauthorized operations ..."

(Petition, p. 15) and that "[a]pplicant has been knowingly and willfully operating in the area as a highway common carrier ..." (Petition, p. 4), thus precluding the Commission's finding that public convenience and necessity require the issuance of the certificate. Petitioners raised essentially the same argument in their "Letter Brief" submitted after the close of hearings and prior to the issuance of Decision No. 83726. However, having again reviewed the record herein in response to this argument, we do not find evidence which would support a finding, as suggested by petitioners, that applicant has been knowingly and willfully operating in excess of its permitted authority.

We therefore conclude that there are no prior unauthorized operations of such a nature that they should be used as a basis for denial of the certificate sought by the applicant. However, Decision No. 83726 should be modified by the addition of one finding in this regard.

IT IS THEREFORE ORDERED that:

1. Decision No. 83726 is hereby amended by the addition of the following finding:

"12. There is no evidence of any prior unauthorized operations which were knowingly and willfully engaged in by applicant, which would provide a basis for denial of the certificate sought herein."

2. In all other respects rehearing or reconsideration of Decision No. 83726 is hereby denied.

3. The effective date of Decision No. 83726 is the date hereof.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 28th
day of JANUARY, 1975.

I dissent:

~~Ed Delaney~~, Commissioner

Verma L. Stenger
President

William J. Quinn

Leonard Ross

Commissioners