Honorable Charles F. Fleming,
Secretary of State,
State of Indiana,
201 State House,
Indianapolis, Indiana.

Dear Sir:

I have your request of December 27, 1949, for an official opinion in which you inquire whether one operating a motor vehicle as a common or contract carrier in Interstate Commerce wholly within the Chicago Commercial zone is required to make proof of public convenience and necessity in the issuance of authority to operate.

This office on August 25, 1927, Attorney General Report 1927, page 273, gave an official opinion in the negative on this question in which opinion Federal decisions were cited showing that a State has no authority to require proof of public convenience and necessity and also that the Public Service Commission would have no authority to deny to the applicant the right to operate such vehicles. Since that time the United States Supreme Court in the case of Buck v. Kuykendall, 267 U.S. 307, has held that while a State may require an interstate operator to comply with the laws of the State in respect to the payment of license fees to be used in the maintenance of highways and other State laws such as safety and so forth, the State may not deny the right of interstate operators on the grounds of public convenience and necessity.

Therefore, my answer to your request is that an interstate operator within the zone described in your letter will not be required to make proof of convenience and necessity.