

Decision No. 23950

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
WILLIAM GIACOMAZZI to Surrender and  
Cancel his Certificates of Public  
Convenience and Necessity permitting  
the operation of motor truck freight  
lines between Santa Clara and Oakland  
via San Jose and between Alverado,  
San Jose and intermediate points and  
San Francisco, California.

Application No. 17465.

Samuel T. Bush, for applicant.

SEAVEY, Commissioner:

O P I N I O N

This proceeding is an application by William Giacomazzi for an order of the Railroad Commission authorizing him to discontinue service as a common carrier milk hauler between points in the vicinity of San Jose and Oakland and San Francisco. He also asks that the certificate of public convenience and necessity heretofore granted him be revoked.

Applicant claims in his application that since October 1, 1929, his operations have been those of a private hauler, his service having been confined to transporting milk under private contract with Del Monte Creamery Co., Liberty Dairy Co., Spreckels-Russell Co., and Golden State Milk Co., all of San Francisco, picking up and hauling milk only from such dairies as may be designated by the concerns named. He makes the further declaration that for more than ten (10) years last past he "has not rendered any service to the public" over the routes for which he holds certificates, having received no requests from any part of

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the public to haul any milk or cream in cans. Further, he declares that he sought and obtained the certificates herein sought to be revoked prior to the decision of the U. S. Supreme Court in what is generally described as the Frost case, although at the time of the granting of said certificates he was and is now a "private or contract hauler."

At a public hearing in this matter, held in San Francisco, evidence confirmatory of the statements set forth in the application was given by the applicant, there now being only three creamery corporations with which he has contracts. No one appeared in opposition to the granting of the application. An order of submission was made and the matter is now ready for decision.

The records of the Commission show that applicant was granted, by Decision No. 11016, on Applications Nos. 8055 and 8065, a certificate to transport milk or cream in cans between Alvarado, Newark, Centerville, Irvington, Milpitas, Wayne, Santa Clara and intermediate points and San Francisco, and between Santa Clara, Decoto and Oakland, via San Jose. On May 22, 1923, he was authorized to temporarily discontinue the service between Oakland and Santa Clara and Decoto. This service has never been resumed.

Under the circumstances I believe the application should be granted. It is clear the service applicant declares he is now performing is that of a private carrier. Further, he definitely declares that it is his intention to continue serving only such dairies as may be designated by the creameries which he is now serving.

I recommend the following form of order:

#### O R D E R

A public hearing having been held, evidence received and an order of submission made,

IT IS HEREBY ORDERED that William Giacomazzi be and he is hereby authorized to discontinue the common carrier milk hauling service he was authorized to perform by Decision No. 11016, and

IT IS HEREBY FURTHER ORDERED that the certificate of public convenience and necessity heretofore granted to William Giacomazzi by said Decision No. 11016 be and the same is hereby revoked and annulled; provided that said William Giacomazzi shall immediately file supplements to tariffs and time schedules on file in his name with the Railroad Commission, which supplements shall cancel said tariffs and time schedules.

The effective date of this order is hereby declared to be twenty (20) days from the date hereof.

The above opinion and order are hereby approved and adopted as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17<sup>th</sup> day of August, 1931.

Oliver A. ...  
Leon ...  
W. B. ...  
Fred G. ...  
Commissioners.