

Decision No. 28293

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PAUL LUDOLPH for a certificate of public convenience and necessity to operate a trucking service as a common carrier between San Francisco and San Jose and intermediate points and between San Francisco and Los Gatos via San Jose or Sunnyvale and intermediate points, and all as hereinafter specified.

ORIGINAL

Application No. 20120.

OPINION

PAUL LUDOLPH, operating under the name and style of PAUL LUDOLPH CO., has made application to this Commission for authority to establish an automotive service as a common carrier for the transportation in containers of buttermilk, condensed milk, evaporated milk, concentrated milk, cream, sour cream, ice milk mix, ice cream mix, condensed skim milk, and cottage cheese, all in fluid or semi fluid state, between San Francisco and San Jose and intermediate points, and between San Francisco and Los Gatos via San Jose or Sunnyvale and intermediate points, and for the transportation in containers of liquid fresh milk between San Francisco and San Jose and intermediate points, including a zone between said points five (5) miles wide on each side of Highway 101W (the El Camino Real), as the same runs from San Francisco to San Jose. Applicant also proposes to include territory within the city limits of San Jose and a zone five (5) miles in all directions from the exterior limits of said city.

Applicant alleges that Valley Ford Creameries, Golden State Company, Ltd., Dairymaid Creameries, Ltd., all of San Francisco and all large shippers of the above commodities, have requested that he institute this service and which he avers will provide a more satisfactory and efficient method for the handling of these commodities and will better serve the individual needs and practices of shippers. The Southern Pacific Company, principal carrier of the list of commodities at present, together with Pioneer Express Co., Intercity Transit Lines, Inc., and Highway Transport Co., have, individually, in writing, specifically waived protest to the granting of this certificate.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

PAUL LUDOLPH is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

ORDER

PAUL LUDOLPH, operating under the name and style of PAUL LUDOLPH CO., having made application as above entitled and the Commission being fully advised in the premises.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of an automotive service for the transportation in containers of buttermilk, condensed milk, evaporated

milk, concentrated milk, cream, sour cream, ice milk mix, ice cream mix, condensed skim milk, and cottage cheese, all in fluid or semi fluid state, between San Francisco and San Jose and intermediate points and between San Francisco and Los Gatos via San Jose or Sunnyvale and intermediate points, and for the transportation in containers of liquid fresh milk only between San Francisco and San Jose and intermediate points, with a pick up and delivery zone between said points five (5) miles on each side of Highway 101W (the El Camino Real) as it runs between San Francisco and San Jose, including the territory within the city limits of San Jose, over and along the following routes:

1. For the transportation of buttermilk, condensed milk, evaporated milk, concentrated milk, cream, sour cream, ice cream mix, ice milk mix, condensed skim milk and cottage cheese, all in fluid or semi fluid state between San Francisco and San Jose and intermediate points via United States Highway No. 101; between Sunnyvale and Los Gatos and intermediate points via California State Highway No. 9; between Los Gatos and San Jose and intermediate points via California State Highway No. 17.

2. For the transportation of liquid fresh milk between San Francisco and San Jose and intermediate points via United States Highway No. 101W (El Camino Real) and a zone five (5) miles laterally on each side of said United States Highway No. 101W between the Ferry Building, Embarcadero, City and County of San Francisco, and a point within the city limits of San Jose where Almaden Avenue intersects with United States Highway No. 101W.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be, and the same hereby is granted to Paul Ludolph subject to the following

conditions:

1. Applicant shall file his written acceptance of the certificate hereis granted within a period of not to exceed fifteen (15) days from date hereof.

2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the amended exhibit "A" attached to the application insofar as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.

3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 21st day of

October, 1935.

Leon A. Whipple

M. B. Lewis

Nathaniel

COMMISSIONERS