

ORIGINAL

Decision No. 36533

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
JOE TESTO and MIKE TESTO, doing )  
business as TESTO BROTHERS, for a ) Application No. 25548  
suspension of certificate of public )  
convenience and necessity. )

BY THE COMMISSION:

O P I N I O N

On May 13, 1941, the Commission rendered its Decision No. 34179, on Application No. 23796, in which it granted to Joe Testo and Mike Testo, doing business as Testo Brothers, a certificate of public convenience and necessity authorizing the establishment and operation of service as a highway common carrier of fresh fruits and vegetables from Stockton, and within a radius of twenty miles thereof, on the one hand, to Los Angeles, on the other hand. In the proceeding before us the Commission is requested to authorize the suspension of this service during the present war and for one year thereafter.

It appears from the application that one of the applicants has been in the military service of the United States since March 1941, and the other expects to be called to the service in the very near future. It is stated that under the circumstances it is impossible to arrange for the continuation of the operation involved during the time applicants are in the national service. The allegations in support of the authority sought are substantially as follows:

That upon the 15th day of March, 1941, Mike Testo, one of the applicants herein, entered into the military service of the United States, and as a consequence is no longer

able to devote any part of his time to the operation and conduct of the business of applicants.

That it is probable that Joe Testo, one of the applicants herein, will enter into the military service of the United States within the near future. That at the present time the said Joe Testo has been deferred pursuant to the regulations of the Selective Service Act,...

That because of the absence of Mike Testo, and because of other difficulties arising in the operation and conduct of the business of applicants due to the present national emergency, it has become increasingly difficult, if not impossible, for applicants to continue operations. That if, and when, the said Joe Testo should enter in the military service of the United States, it would in all probability become impossible for applicants to continue said operation. That because the said Joe Testo, upon the expiration of his deferment may be promptly called, and with very short notice, into the military service, arrangements must be made, without delay, regarding the certificate granted to applicants as hereinabove described.

After full consideration of applicants' request we are of the opinion, and so find, that it is in the public interest that the application be granted, limited to a period ending December 31, 1944, and the order will so provide. This is not a matter requiring a public hearing.

#### O R D E R

IT IS ORDERED that Joe Testo and Mike Testo, doing business as Testo Brothers, may suspend highway common carrier operations from Stockton and all points within a radius of twenty miles thereof, on the one hand, to Los Angeles, on the other hand, until December 31, 1944, subject to the following conditions:

- (a) Applicants shall immediately supplement their tariffs and time tables to reflect the foregoing authority.

(b) That said service may be resumed upon not less than ten (10) days' notice to the Commission prior to the expiration of the period of suspension herein specified or of such extension thereof as may be hereafter granted by further order, and upon compliance with the provisions of General Order No. 80 and Part IV of General Order No. 93-A.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of

August, 1943.

*Francis R. Havens*

*Justin Z. Casper*

*Richard Lusk*

*Francis J. [unclear]*

COMMISSIONERS