

**ORIGINAL**Decision No. 48851

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 J. J. LEONARDINI, an individual, doing )  
 business as O.K. TRUCKING CO., for an ) Application No. 33535  
 order modifying Decision No. 44528, to )  
 remove restriction. )

Edward M. Berol, for applicant.  
Robert W. Walker and Wallace L. Ware, for The Atchison,  
 Topeka & Santa Fe Railway Company and Santa Fe Trans-  
 portation Company, protestants.  
Warren H. Biscailuz, for Pacific Freight Lines,  
 protestant.  
J. H. Rhodes, for Southern California Freight Lines,  
 protestant.  
F. E. Ward, for Valley Motor Lines, interested party.  
J. E. Thompson and Boris H. Lakusta, for the Field  
 Division, Public Utilities Commission.

O P I N I O N

The Commission by Decision No. 44528, dated July 11, 1950, in Application No. 30943, granted J. J. Leonardini the right to transport fresh fruits and vegetables between the San Francisco Bay Area, on the one hand, and points in California south of Fresno and Santa Maria and east of Los Angeles, with certain exceptions, on the other hand, subject to a restriction limiting such right to shipments of not less than 10,000 pounds or shipments which will carry charges applicable to a shipment of 10,000 pounds. Applicant requests the Commission to remove such restriction.

Pacific Freight Lines, The Atchison, Topeka & Santa Fe Railway Company, Santa Fe Transportation Company and Southern California Freight Lines protested the granting of the application.

A public hearing was held at San Francisco before Examiner Silverhart on December 11, 1952 at which time the matter was submitted.

The Commission by order dated March 30, 1953 set aside such submission and reopened the proceeding for further hearing. Pursuant to such order a further public hearing was held at San Francisco before Examiner Silverhart on May 20, 1953, at which time the matter was submitted.

The applicant offered no additional testimony nor called any witnesses and rested upon the record made at the original hearing. None of the protestants and the interested party who appeared at the hearing held December 11, 1952 appeared at the instant hearing. The Commission's staff rested without offering testimony or presenting witnesses.

Applicant testified that he has been requested by many shippers to transport their shipments of less than 10,000 pounds as well as those 10,000 pounds or over. He stated that he has carried shipments of 2,000 pounds and 4,000 pounds for some of them under his radial highway common carrier permit. Charges applicable to such weights were assessed, he said, because the shippers would not engage his services if they were required to pay a 10,000 pound charge for the movement of a shipment weighing 4,000 pounds. According to his testimony, applicant, at the time he filed Application No. 30943, was of the opinion that produce merchants and brokers would not deal in shipments weighing less than 10,000 pounds, but that presently they are purchasing fresh fruits and vegetables every day and in smaller quantities with resultant lighter shipments.

An exhibit placed in evidence by a member of the Commission's staff disclosed that applicant, from January 1, 1952 to July 31, 1952, and between Los Angeles, on the one hand, and San Francisco and Oakland, on the other hand, transported 213 shipments of 10,000 pounds and over, or against which charges were

assessed as if they weighed 10,000 pounds and 353 shipments under 10,000 pounds, none of which carried charges applicable to shipments of 10,000 pounds.

Produce merchants now using applicant's service testified that at the beginning and ending of the various harvest periods shipments of fresh fruits and vegetables for the most part are under 10,000 pounds and that in the operation of their businesses they required his service for the transportation of such shipments.

The protestants did not testify or call any witnesses.

The evidence shows, and we so find, that public convenience and necessity require that the application be granted.

#### O R D E R

A public hearing having been held and upon consideration of the evidence therein adduced,

IT IS ORDERED that ordering paragraph (1) of Decision No. 44528, dated July 11, 1950, is amended as follows:

"(1) That a certificate of public convenience and necessity be and it is hereby granted to J. J. Leonardini authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of fresh fruits and fresh vegetables of all kinds, and empty containers therefor, upon an 'on-call' basis, between San Francisco, Richmond, El Cerrito, Albany, Berkeley, Oakland, Alameda, San Leandro and Hayward, on the one hand, and such points and places in Central and Southern California, on the other hand, as are set forth below:

- "1. U. S. Highway 99 between Fresno and the Mexican Border.
- "2. U. S. Highway 101 and 101-A between Santa Maria and the Mexican Border.

"3. U. S. Highway 60 between Los Angeles and Blythe with the right to serve off-highway points within 20 miles of above-named highways."

IT IS FURTHER ORDERED that within sixty days from the effective date hereof, and on not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective appropriate tariffs.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Luis Obispo, California, this 21<sup>st</sup> day of January, 1953.

*A. J. ...*  
 President  
*Justice J. ...*  
*Harold ...*  
*Margaret ...*  
 Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.