

**ORIGINAL**

Decision No. 49978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOHN )  
 J. LEONARDINI, SR., and BANK OF AMERICA, )  
 NT & SA, as Trustee under the Will of )  
 Elizabeth Ann Leonardini, deceased, doing )  
 business as O. K. TRUCKING COMPANY, to sell )  
 and transfer to O. K. TRUCKING CO., a )  
 corporation, and Application by the said )  
 O. K. TRUCKING CO., a corporation, to buy )  
 operative rights, automotive equipment, and )  
 other property of said business, and to )  
 issue stock in payment therefor. )  
 ----- )  
 )

Application  
No. 35344

O P I N I O N

John J. Leonardini, Sr. and Bank of America National Trust and Savings Association, as trustee under the will of Elizabeth Ann Leonardini, deceased, are the owners and operators of the O. K. Trucking Company, a highway common carrier of fresh fruits and vegetables in California. In this application they report that they desire to transfer the properties and business to O. K. Trucking Co., a corporation, in exchange for capital stock in the amount of \$66,800, which is equivalent to the reported net investment in tangible properties and current and prepaid assets as of December 31, 1953.

The operative rights to be transferred are those represented by certificates of public convenience and necessity acquired by John J. Leonardini, Sr. under authorization granted by Decision No. 29520, dated February 8, 1937, in Application No. 20975; Decision No. 40156, dated April 15, 1947, in Application No. 28327; and Decision No. 44528, dated July 11, 1950, in Application No. 30943.

It appears from the application that there will be no changes in the rates, rules and regulations as a result of the proposed transfer and in our opinion the transaction will not be adverse to the public interest.

Applicants are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the state as the consideration for the grant of such rights. 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 as to the number of rights which may be given.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the shares of stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. John J. Leonardini, Sr. and Bank of America National Trust and Savings Association, as trustee under the will of Elizabeth Ann Leonardini, deceased, on and after the effective date hereof and on or before September 30, 1954, may transfer to O. K. Trucking Co., a corporation, the certificates of public convenience and necessity and the properties to which reference is made in this proceeding.
2. O. K. Trucking Co., a corporation, in acquiring said certificates and properties, may assume the payment of outstanding indebtedness and may issue not exceeding \$66,800 par value of its common capital stock.
3. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that John J. Leonardini, Sr. and Bank of America National Trust and Savings Association, as trustee under the will of Elizabeth Ann Leonardini, deceased, have withdrawn or canceled and that O. K. Trucking Co., a corporation, has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the filing and construction of tariffs set forth in the Commission's General Order No. 80.
4. O. K. Trucking Co., a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective 20 days after the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup> day of April, 1954.

*R. E. Anderson*  
President

*Justus J. Caswell*

*Wesley P. Potter*

*John L. Hill*

*Gene Douglas*  
Commissioners