

Decision No. 53165**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 LOUIS MARINO, LAWRENCE MARINO and)
 ERNEST MARINO, co-partners, doing)
 business as MARINO BROTHERS TRUCKING)
 COMPANY, for a certificate of public)
 convenience and necessity to operate)
 as a highway common carrier between)
 the San Francisco territory and the)
 Los Angeles territory, Monterey,)
 Marysville, Gridley, Woodland,)
 Sacramento, Stockton, San Bernardino)
 and intermediate points.)

Application No. 36334

O P I N I O N

Louis Marino, Lawrence Marino and Ernest Marino are engaged in the transportation of property in California pursuant to a permit issued by this Commission.

Applicants seek an order authorizing them to conduct service as a highway common carrier for the transportation of general commodities between Stockton, Sacramento, Gridley, Marysville, Yuba City, Woodland, Monterey, Watsonville, Clarksburg, Terminus, Thornton, Holt, King Island, Mandeville Island, Linden, Escalon, Auburn, Newman, the San Francisco Territory, the Los Angeles Territory, San Diego and all points intermediate thereto and between said intermediate points.

Notice of filing of the application was given all common carriers subject to the jurisdiction of this Commission.

Upon consideration of the allegations of the application and the representations filed pursuant to the above-mentioned notice, the Commission finds that public convenience and necessity require that the application be granted as set forth

in the ensuing order. It appears that applicants possess the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein. A public hearing is not necessary.

Applicants are hereby placed on 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, such rights 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.

O R D E R

The Commission has considered the application and representations filed herein, Now Therefore

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Louis Marino, Lawrence Marino and Ernest Marino, authorizing them to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public

convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That the operative rights granted by Decision No. 46032, dated July 31, 1951, in Application No. 31983, are cancelled simultaneously with the making of the filings pursuant to and required by the provisions of paragraph (2) hereof.

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

Dated at San Francisco, California, this 28th day of May, 1956.

President

Justice F. Cooney

Carl Intaric

Michael D. ...

R. Hardy

Commissioners

*
Decision No. 53665
Dated MAY 28 1956
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APPENDIX A

Louis Marino, Lawrence Marino and Ernest Marino, by the certificate of public convenience and necessity granted in the above-numbered decision, are authorized to transport:

- I. Vegetables, fresh or green (not cold pack or frozen), including mushrooms; fruits, fresh or green (not cold pack or frozen); between:
 - a. San Francisco, Richmond, Berkeley, Oakland and Alameda, on the one hand, and Stockton, Linden, Escalon and Modesto, on the other hand.
 - b. Stockton and Modesto.
 - c. Modesto and Marysville.

Applicants shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs a., b. and c.

The authority hereinabove set forth at a., b. and c. does not include the right to render service to, from or between intermediate points.

- II. Canned goods, between Modesto, Stockton and Manteca, and between each of these points, on the one hand, and San Francisco, Richmond, Berkeley, Oakland and Alameda, on the other hand, only when said canned goods originate at or are destined to a cannery, packing or processing plant.

Applicants shall conduct operations, pursuant to this paragraph II, within San Francisco, Richmond, Berkeley, Oakland and Alameda; all available streets and highways. Between Oakland and Stockton: U. S. Highway 50. Between Stockton and Modesto: U. S. Highway 99 between Manteca and U. S. Highway 50; California Highway 120.