

58528

ORIGINAL

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MELVIN ROY, doing business under the fictitious name and style of FLO' DEL CO., for a certificate of public convenience and necessity to operate as a highway common carrier between San Francisco and Palo Alto, and Intermediate points, on the one hand, and San Francisco and Oakland, Alameda, Berkeley, Piedmont, El Cerrito, Albany, and San Leandro, on the other.

Application No. 21879

In the Matter of the Application of MELVIN ROY, doing business as FLO' DEL CO., for a certificate of public convenience and necessity as a highway common carrier.

Application No. 28194

In the Matter of the Application of MELVIN F. ROY, an individual doing business as FLO' DEL COMPANY, for authority to transfer a certificate of public convenience and necessity to a partnership composed of MELVIN F. ROY and J. M. BRAINERD and of J. M. BRAINERD to acquire an interest in said certificate as such copartner.

Application No. 33516

SUPPLEMENTAL ORDER

Melvin F. Roy and J. M. Brainerd are carriers of cut flowers and similar products between San Francisco and a number of the surrounding towns. Their present certificates have no weight limitations. Therefore they have to file class rates, rules and regulations which are never used. They therefore have requested the Commission to insert a restriction in their certificates limiting them to the transportation of shipments under 50 pounds in weight.

Public convenience and necessity do not appear to require the services of applicants in the transportation of shipments of over 50 pounds and so the sought authority will be granted. The Commission

will take advantage of the pendency of these proceedings to restate applicants' operating authority in the current appendix form. A public hearing is not necessary.

Melvin F. Roy and J. M. Brainerd 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 modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Applications having been filed and the Commission being informed in the premises,

IT IS ORDERED that:

(1) The operating authority of Melvin F. Roy and J. M. Brainerd, created by Decisions Nos. 31278 in Application No. 21879 and 40104 in Application No. 28194, is revoked as of the date on which service is commenced under the authority granted by paragraph (2) of this order.

(2) A certificate of public convenience and necessity is granted to Melvin F. Roy and J. M. Brainerd, authorizing them to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of the property between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

(3) 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.

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

Dated at San Francisco, California, this 16th day of June, 1959.

E. L. Fox  
President  
W. L. Mitchell  
W. L. Mitchell  
Commissioners

Melvin F. Roy and J. M. Brainerd, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport fresh cut flowers, potted flowers, potted plants, fresh floral wreaths and other floral arrangements between:

- (a) San Francisco, El Cerrito, Albany, Berkeley, Piedmont, Emeryville, Oakland, Alameda and San Leandro.
- (b) San Francisco, Palo Alto and intermediate points upon and along U. S. Highways 101 and By-pass 101.
- (c) San Francisco, Sausalito, Mill Valley, Corte Madera, Larkspur, Ross, Kentfield, San Anselmo, Fairfax, San Rafael, Tiburon, Belvedere, and intermediate points.
- (d) San Francisco, Orinda, Lafayette, Walnut Creek and intermediate points.

RESTRICTIONS: Melvin F. Roy and J. M. Brainerd shall transport no shipments weighing more than 50 pounds.

The service authorized by paragraphs (c) and (d) above is subject to the further restriction that service under said paragraphs is limited to shipments from retail florists to their customers.

Issued by California Public Utilities Commission.

Decision No. 58628, Applications Nos. 21879, 28194, 33516.