

ORIGINALDecision No. 61041

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRANK PANELLA and BERNARD R. PANELLA,)
 co-partners doing business as)
 B. PANELLA DRAYAGE CO., for a certifi-)
 cate of public convenience and neces-)
 sity to operate as a highway common)
 carrier.)

Application No. 42609

O P I N I O N

Applicants commenced this proceeding on August 26, 1960. They presently hold permits for radial highway common, highway contract and city carrier operations together with a statewide petroleum irregular route carrier certificate.

By the instant application Panella Drayage seeks authority to serve all points in the San Francisco-East Bay Cartage Zone, also between that zone and San Jose via State Highways Nos. 9 and 17 and U. S. Highways Nos. 101 and 101-Bypass and all points within ten miles of San Jose.

In support of their proposal, applicants allege that their firm has existed since 1912, always in the Panella family. It has been regulated by the Commission since 1935, the date of the highway carriers act. It has been transporting general commodities for many years in the requested area. Its operations have reached the point where their legality is dubious.

It appears that these allegations are sustained by evidence in numerous proceedings before the Commission in the last ten years. The population and industrial growth of south bay, southern Alameda County and the San Francisco peninsula is well known. The preliminary census figures released by the Federal Government confirm what many already knew about this growth.

Applicants operate a fleet of approximately 134 units not counting service cars and trucks. Forty-two of these are motive power units. Financial exhibits reveal a current ratio of almost two to one. Depreciated assets amounted to \$220,546 on June 30, 1960 with \$108,364 representing the partners' capital interest. It appears, and the Commission finds, that applicants are fit to undertake the service they propose.

The Commission finds that public convenience and necessity require that the application be granted. 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 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.

O R D E R

An application having been filed and the Commission being of the opinion that it should be granted,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is granted to Frank Panella and Bernard R. Panella authorizing them to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes as more particularly set forth in Appendices A and B attached

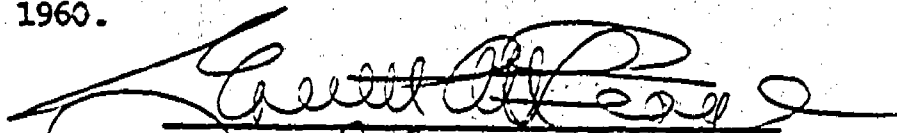
hereto and made a part hereof.


2. 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 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, 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.

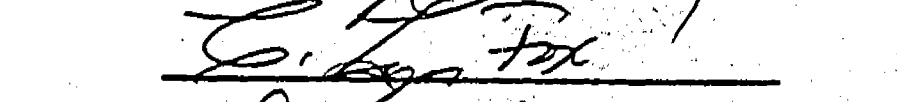
The effective date of this order shall be twenty days after the date hereof.

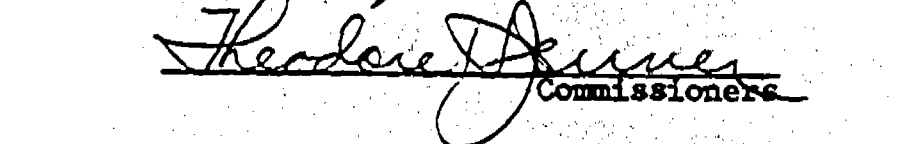
Dated at San Francisco, California, this 15th day of NOVEMBER, 1960.



President








Commissioners

Frank Panella and Bernard R. Panella, co-partners, are authorized, by the decision noted in the margin, to transport general commodities between:

1. All points and places in San Francisco-East Bay Cartage Zone as described on Appendix B.
2. San Mateo, San Jose, and intermediate points along U. S. Highways Nos. 101 and 101-Bypass with the right to serve all points within five miles of said highways.
3. Hayward, San Jose and intermediate points via State Highways Nos. 9 and 17 with the right to serve all points within five miles of said highways.
4. All points and places within a radius of ten miles of San Jose.
5. Any point in any one of the above numbered paragraphs 1 through 4 inclusive, and any point named in any other one of said paragraphs.

Applicants may, for operating convenience, use any street, road, highway, ferry or toll bridge in performing the service herein authorized.

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Applicants shall transport no shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses, viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigeration equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

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APPENDIX B TO DECISION NO. 61041

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to So. Mayfair Avenue; thence westerly along said So. Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U.S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U.S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U.S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland, thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U.S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U.S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U.S. 40; thence northerly along Highway U.S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence

westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.