

ORIGINAL

Decision No. 61203

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ROMEO FAENZI and JOE AMARAL, partners)
doing business as ROMEO'S DELIVERY &)
DRAYAGE, for a Certificate of Public)
Convenience and Necessity to Operate)
as a Highway Common Carrier.)

Application No. 42552

E. H. Griffiths, for applicants.

O P I N I O N

By the application herein, filed with the Commission on August 12, 1960, Romeo Faenzi and Joe Amaral, copartners doing business as Romeo's Delivery & Drayage, request a certificate of public convenience and necessity as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of general commodities between all points and places in the San Francisco-East Bay Cartage Zone, as described in Appendix B attached hereto; and between San Mateo and San Jose and intermediate points as described in Appendix C attached hereto.

A public hearing was held on September 29, 1960, at San Francisco before Examiner Martin J. Porter and the matter was submitted.

There was no protest to the application although the application and notice of hearing were sent to all known common carriers with whom the service proposed herein might be competitive.

The evidence shows that Romeo Faenzi, operating as an individual, commenced for-hire operations with one truck and was issued radial highway common carrier and city carrier permits in May 1946. Said permits were transferred to Romeo Faenzi and

Joe Amaral on June 7, 1954, who have continuously so operated to the present date.

Since the commencement of operations in 1946, transportation service has been performed within the territory requested herein. As a result of customer demands between the points and over the routes here involved, the service has been expanded to the point where it now requires 12 units of equipment.

Applicants bill between 175 and 200 shippers per month.

Nine shipper witnesses testified. These shippers all have used applicants' service and were highly satisfied. The commodities shipped included, in part, abrasive paper, leather machinery belts, printed matter, candles, candle holders, work clothes, toys, coffee and tea.

All witnesses testified that in the area sought to be served by the applicants, their markets were expanding and the need for applicants' service would be increased.

Exhibit 1 was filed which lists the names, addresses, types of commodities shipped and frequency of shipments of 19 additional shippers who had need for applicants' service.

The majority of the shippers indicated that they had need for applicants' service daily.

Exhibit D attached to the application shows a net profit of \$16,555.24 for the first 6 months of applicants' present operations.

Upon consideration of all of the evidence adduced herein we find that public convenience and necessity require that the application be granted.

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

Public hearing having been held, and based upon the evidence adduced therein and the application filed herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Romeo Faenzi and Joe Amaral, 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 and places and over and along the routes and subject to the restrictions, as more particularly set forth in Appendices A, B and C attached hereto.

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 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 one hundred twenty days after the effective date hereof, and on not less than ten days' notice to the Commission and to 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 13th day of December, 1960.

Robert R. Page
President

John L. Mitchell

S. Leo Fox

Theodore J. Deener

Commissioners

I dissent on the ground that public convenience and necessity has not been established.

Matthew J. Walsh

Romeo Faenzi and Joe Amaral, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport general commodities:

1. From, to and between all points and places within the San Francisco-East Bay Cartage Zone as more particularly described in Appendix B hereof.
2. From, to and between San Mateo, Hayward and San Jose and intermediate points more particularly described in Appendix C hereof.

Service to be performed between certificated points via any and all available streets and highways including all connecting streets and highways.

Applicants shall not transport any 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 refrigerated 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.

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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.
9. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix A

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APPENDIX B TO DECISION NO.

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.

APPENDIX C TO DECISION NO. _____

Between San Mateo and San Jose and intermediate points on U.S. Highways 101 and 101 By-Pass, between Hayward and San Jose and intermediate points on State Highways 9 and 17, and between all points laterally within five miles of said highways and all points and places within a radius of 10 miles of San Jose.