

# ORIGINAL

Decision No. 61475

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 ROSE J. ANTONINI, VIRGIL J. ANTONINI, )  
 Administrator for the Estate of LOUIS )  
 E. ANTONINI and VIRGIL J. ANTONINI, )  
 partners doing business as ANTONINI )  
 FRUIT EXPRESS for Permission to )  
 REMOVE RESTRICTIONS and for an )  
 Expansion and Restatement of its )  
 Certificate of Public Convenience )  
 and Necessity to Operate as a Highway )  
 Common Carrier. )

Application No. 42106

Francis X. Vieira, for applicants.

## O P I N I O N

Applicants are authorized to transport fruit and vegetables as a highway common carrier between Stockton and points within a thirty-mile radius thereof, on the one hand, and, on the other hand, San Francisco and Oakland. Applicants also conduct operations under various permits issued by this Commission. Applicants seek herein authority to transport general commodities, with limited exceptions, between the San Francisco Territory, on the one hand, and, on the other hand, all points and places within the Counties of Butte, Contra Costa, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba. Twenty-five mile lateral operating authority is also requested.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis at Stockton on October 18, 1960. No protestants appeared at the hearing. The matter was submitted, subject to the filing of a late-filed exhibit which has been received, and the matter is now ready for decision.

The record discloses that at the moment applicants conduct operations primarily as an agricultural hauler. Applicants operate terminals in Stockton and Marysville. They have approximately 13 regular employees. During the harvest season additional office help and drivers are employed. Applicants conduct an intensive safety program among their drivers. The Commission finds that applicants have the ability, including financial ability, to conduct the operations for which authority is herein sought.

Nine members of the shipping public testified on behalf of applicants. In addition, the testimony of 21 other witnesses was received in exhibit form.

Many of the witnesses were farmers or represented companies that required transportation service to remote points off of main highways, such as farms, packing sheds, food processing plants, air strips, etc. In general, these witnesses testified that they had difficulty obtaining dependable service for general commodities at these remote points from the highway common carriers now serving the areas here under consideration. For example, the owner of a pre-fabricating cement company which manufactures laundry trays testified that he ships these trays in the territory requested; that the trays are very fragile; that because of unsatisfactory highway common carrier service he has resorted to proprietary trucking, and that he would attempt to use the applicants if the authority herein requested is granted. It also appears that because of the agricultural transportation heretofore indicated, applicants' drivers are fully conversant with the location of points in the areas here involved and applicants would thus be able to give more expedited service to shippers and receivers of freight.

In addition to requesting authority to serve between the San Francisco Territory and the various counties heretofore named, applicants also seek authority to serve all points located laterally within 25 miles of their authorized service areas. Because of the rural character of most of the area which applicants seek to serve, the Commission is of the opinion that broad territorial operating rights should be herein granted. However, there is not sufficient evidence in the record to justify the tacking on of a 25-mile lateral operating authority to the area which is requested.

The Commission finds that public convenience and necessity require that the application be granted to the extent hereinafter set forth.

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.

In order to avoid confusion among the shipping public and assist the Commission in its regulatory functions, the additional operating authority herein granted and applicants' existing certificates of public convenience and necessity will be consolidated.

O R D E R

An application having been filed, a public hearing having been held, and based on the evidence therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is granted to Rose J. Antonini, Virgil J. Antonini, Administrator for the Estate of Louis E. Antonini, and Virgil J. Antonini, 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. 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.

3. That the certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Rose J. Antonini, Virgil J. Antonini, Administrator for

the Estate of Louis E. Antonini, and Virgil J. Antonini and presently possessed by them, which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of FEBRUARY, 1961.

Gene R. Peap  
President  
W. E. Hatcher  
E. Lynn Fox  
George L. Brown  
Frederick B. Bobloff  
Commissioners

ROSE J. ANTONINI,  
VIRGIL J. ANTONINI  
ADMINISTRATOR FOR THE  
ESTATE OF LOUIS E. ANTONINI,  
AND VIRGIL J. ANTONINI

Rose J. Antonini, Virgil J. Antonini as Administrator for the Estate of Louis E. Antonini, and Virgil J. Antonini, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport general commodities as follows:

1. Between all points and places in the Counties of Butte, Contra Costa, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba.
2. Between points in the San Francisco Territory as described in Appendix B attached hereto, on the one hand, and, on the other hand, all points and places in the Counties described in subparagraph 1 above.
3. Through routes and rates may be established between any and all points described in subparagraph 1 above.
4. Applicants may use any and all highways and roads between the areas described for operating convenience only.
5. No local service is authorized between points located in the San Francisco Territory as described in Appendix B attached hereto.
6. Applicants shall not transport any shipments of:
  - a. 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.

Issued by California Public Utilities Commission.

Decision No. 61275, Application No. 42106.

ROSE J. ANTONINI,  
 VIRGIL J. ANTONINI  
 ADMINISTRATOR FOR THE  
 ESTATE OF LOUIS E. ANTONINI,  
 AND VIRGIL J. ANTONINI

- b. 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. (See Note.)

NOTE: This exception does not apply when the vehicle is crated, or tendered as part of a mixed shipment with other commodities, provided said crated vehicle or vehicle tendered as a part of a mixed shipment is not transported in special truckaway equipment.

- c. 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.
- d. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- e. Fresh or green fruits or vegetables (not cold pack nor frozen) when:
- (1) The point of destination is a cannery, accumulation station, cold storage plant, precooling plant, or winery.
  - (2) Transported from the field or point of growth to a packing plant, or packing shed (see Exception).

EXCEPTION

Except for the transportation of citrus fruits in field boxes or in bulk, or avocados, the provisions of Paragraph e will not apply when the distance between point of origin and point of destination exceeds 50 constructive miles.

- (3) For the transportation of sugar beets, the point of destination is a beet sugar factory or a railroad loading dump.

f. Logs.

End of Appendix A

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SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; north-easterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwestly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.