

ORIGINAL

Decision No. 78960

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )

1. Romeo A. Faenzi & Joe Amaral, )  
a partnership, doing business as )  
Romeo's Delivery & Drayage, to )  
transfer, and of Romeo's Drayage )  
& Warehousing Company, a )  
corporation, to acquire a )  
certificate to operate as a )  
common carrier & a public utility )  
warehouse certificate & operation )  
at San Francisco, California. )

2. Romeo Drayage & Warehousing )  
Company, a corporation, to issue )  
shares of its capital stock. )

3. Chester Cassella, George )  
Cassella, & Elmo Cresta, doing )  
business as Distributors )  
Warehouse Co. for authority to )  
sell a certificate to operate )  
as a common carrier and a )  
public utility warehousing )  
certificate. )

Application No. 52607  
Filed May 10, 1971  
and Amendment  
Filed June 28, 1971

O P I N I O N

Romeo A. Faenzi and Joe Amaral, doing business as Romeo's Delivery & Drayage, and Chester Cassella, George Cassella and Elmo Cresta, doing business as Distributors Warehouse Co., seek an order of the Commission authorizing them to transfer their highway common carrier certificate of public convenience and necessity, together with related assets,

and public utility warehouseman prescriptive operative right, respectively, to Romeo Drayage & Warehousing Company, a corporation. The latter seeks authority to assume equipment obligations and to issue 20,000 shares of its \$1 par value capital stock.

Romeo A. Faenzi and Joe Amaral operate as a highway common carrier of general commodities, with certain exceptions, in the San Francisco Bay area pursuant to a certificate of public convenience and necessity granted by Decision No. 61203, dated December 13, 1960, in Application No. 42552, as subsequently amended. In addition, they operate pursuant to permits issued by this Commission, and also operate under Interstate Commerce Commission authority.

Chester Cassella, George Cassella and Elmo Cresta operate as a public utility warehouseman in San Francisco pursuant to a prescriptive operative right acquired under authority granted by Decision No. 39457, dated October 1, 1946, in Application No. 27865.

Romeo Drayage & Warehousing Company is a California corporation incorporated on or about March 19, 1971. It proposes to acquire the highway common carrier certificate of public convenience and necessity and related assets, subject to liabilities, of Romeo A. Faenzi and Joe Amaral in exchange for 20,000 shares of its \$1 par value capital stock. It also proposes to acquire the public utility warehouseman prescriptive operative right of Chester Cassella, George Cassella and Elmo Cresta for \$10 cash. A pro forma balance sheet as of December 31, 1970, based upon information contained in the amendment to the application and in Exhibit C, attached to the application, is summarized as follows:

Assets

Current assets	\$28,577
Net fixed assets	15,165
Other assets	<u>15,678</u>
Total	<u>\$59,420</u>

Liabilities

Current liabilities	\$10,715
Equipment obligations	10,730
Capital stock	20,000
Capital surplus	<u>17,975</u>
Total	<u>\$59,420</u>

After consideration the Commission finds that:

1. The proposed transfers would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application, as amended, should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred. So far as the highway carrier rights are concerned the authorization herein granted is for the transfer of the highway common carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer of the public utility warehouseman prescriptive operative right is consummated, the revocation of such operative right and the issuance of a certificate in appendix form to Romeo Drayage & Warehousing Company.

Romeo Drayage & Warehousing Company is 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, these rights extend to the holder a full or partial monopoly of a class of business. 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

IT IS ORDERED that:

1. Romeo A. Faenzi and Joe Amaral may sell and transfer, and Romeo Drayage & Warehousing Company may purchase and acquire, the highway common carrier certificate of public convenience and necessity and related assets referred to in the application, as amended.

2. Romeo Drayage & Warehousing Company, on or after the effective date hereof and on or before December 31, 1971, in acquiring the certificate and assets as authorized by Paragraph No. 1 of this order, may assume outstanding liabilities of Romeo A. Faenzi and Joe Amaral and issue not exceeding 20,000 shares of its \$1 par value capital stock.

3. Romeo Drayage & Warehousing Company shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Chester Cassella, George Cassella and Elmo Cresta may sell and transfer, and Romeo Drayage & Warehousing Company may purchase and acquire, the public utility warehouseman prescriptive operative right referred to in the foregoing opinion.

5. Within thirty days after consummation of any transfer herein authorized, Romeo Drayage & Warehousing Company shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect the transfer.

6. Romeo Drayage & Warehousing Company shall amend or reissue the tariffs on file with the Commission naming rates and rules governing the highway common carrier and warehouseman operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfers herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Orders Nos. 61-A and 80-A. Failure to comply with and observe the provisions of General Orders Nos. 61-A and 80-A may result in a cancellation of the operating authority granted by, and acquired pursuant to, this decision.

7. In the event the transfer authorized in Paragraph No. 4 hereof is consummated, a certificate of public convenience and necessity is granted to Romeo Drayage & Warehousing Company authorizing it to operate as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in Paragraph No. 7 of this order shall supersede the prescriptive operative right acquired by Chester Cassella, George Cassella and Elmo Cresta pursuant to Decision No. 39457, which prescriptive operative right is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 6 hereof.

9. Within thirty days after the transfers herein authorized are consummated, Romeo Drayage & Warehousing Company shall file a written acceptance of the certificates. Romeo Drayage & Warehousing Company is placed on notice that, if it accepts the highway common carrier certificate, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-F.

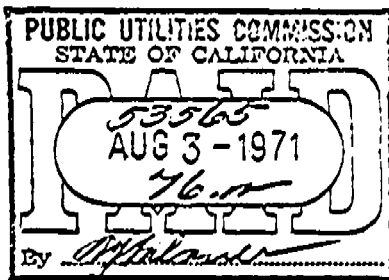
10. Romeo Drayage & Warehousing Company shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, annual reports of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

11. Romeo Drayage & Warehousing Company shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Romeo Drayage & Warehousing Company elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

12. On or before the end of the third month after the consummation of the transfer authorized in Paragraph No. 4 of this order, Romeo Drayage & Warehousing Company shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of Chester Cassella, George Cassella and Elmo Cresta for the period commencing with the first day of the current year to and including the effective date of the transfer.

13. This order shall become effective when Romeo Drayage & Warehousing Company has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$76.

Dated at San Francisco, California, this 27<sup>th</sup> day of JULY, 1971.



William J. ... Chairman

[Signature]  
Samuel L. Sturgeon

Commissioners

Commissioner J. F. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.  
Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Romeo Drayage & Warehousing Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
City and County of San Francisco	30,000

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 78960, Application No. 52507.