

ORIGINAL

Decision No. 40755

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
John Fox (JOHN MCCARTHY AND SON) for)
Certificate of Public Convenience) Application No. 28078
and Necessity to Operate the business)
of Warehouseman.)

Appearances

O'Day and Kearns, by P. J. Kearns, for applicant.
J. L. Dawson, for California Warehousemen's
Association, interested party.
Reginald L. Vaughan, for Warehousemen's Association
of the Port of San Francisco and its component
members, as their interests may appear.

O P I N I O N

By this application, as amended, John Fox, George Fox and John Fox, Jr., copartners doing business as John McCarthy and Son, seek authority to operate a public utility warehouse business in San Francisco. They propose that this operation supersede that of John Fox conducted under a temporary certificate of public convenience and necessity granted by Decision No. 37455 (45 C.R.C. 495), as amended.¹

A public hearing was had at San Francisco on September 17, 1947, before Examiner Mulgrew.

John Fox's temporary certificate authorizes the operation of 100,000 square feet of warehouse floor space. For some time he has been operating only 40,000 feet as a result of the expiration of

¹ The temporary certificate, as initially granted, was scheduled to expire on April 30, 1945. As a result of various extensions, the expiration date is now December 31, 1947.

the lease on one of the three warehouse structures formerly used in his storage business. The warehouses now being operated are available for use by the copartners. The certificate here sought is proposed to be limited to the amount of floor space in these warehouses.

Several witnesses testified that they have used the service provided by John Fox and have found it excellent. They stated that they considered the proposed service essential for their prospective public storage requirements. They also stated that prior to the inauguration of Fox's service they had experienced difficulty in securing needed warehousing.

One of the copartner applicants, the manager of the John Fox operation, testified that there has been a continued demand for storage in the facilities involved.

The Warehousemen's Association of the Port of San Francisco takes the position, and applicants agree, that changed conditions have increased public warehouse space requirements and that the continued use of the additional space actually operated by John Fox and other warehousemen under temporary authorization of the Commission is necessary in order to provide the public with adequate storage service.

The granting of the application was not opposed.

The record shows that public convenience and necessity will be served by granting the requested operating authority. The temporary authority held by John Fox will concurrently be revoked.

Applicants are hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to John Fox, George Fox and John Fox, Jr., as copartners, authorizing the establishment and operation by them of 40,000 square feet of warehouse space in the City and County of San Francisco.

IT IS HEREBY FURTHER ORDERED that in the establishment and operation of the public utility warehouse service hereinabove authorized applicants shall comply with and observe the following service regulations:

1. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
2. Within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public, applicants shall establish the service herein authorized and comply with the provisions of General Order No. 61 by filing, in duplicate, and concurrently making effective appropriate tariffs.

IT IS HEREBY FURTHER ORDERED that upon the establishment of service by John Fox, George Fox and John Fox, Jr., the certificate of public convenience and necessity granted John Fox by Decision No. 37445 of November 3, 1944, in Application No. 24946, be and it is hereby revoked.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 23rd day of September, 1947.

Harold P. Kull
James F. Garner
Les M. Russell
R. J. ...
...
Commissioners