

Decision No. 50870**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 F. J. BURNS DRAYING, a California)
 corporation, for a certificate of) Application No. 34866
 public convenience and necessity to)
 operate as a highway common carrier.)
 (Amended Title))

Marvin Handler and Daniel W. Baker, for applicants.

Douglas Brookman, William Meinhold, Frederick E. Fuhrman, William E. Shuholm, Willard S. Johnson, Edward M. Berol, Bertram S. Silver and Thomas P. Brown, for various carriers, protestants.

Russell Bevans, for Draymen's Association of San Francisco; Maurice A. Owens, for Draymen's Association of Alameda County; N. R. Moon, for Loretz & Co.; and Vaughan, Paul and Lyons by John G. Lyons and Frank Loughran, for various carriers, interested parties.

O P I N I O N

Applicant is one of the group of carriers whose problems precipitated the investigation designated by the Commission as Case No. 5535. Hearings were held on this application in connection with that case. Evidence of community growth and the resulting expansion of carrier operations, as developed in Case No. 5535, was found to apply to this applicant and to have materially influenced its activities. In addition, a hearing on this application alone was held before Commissioner Verne Scoggins and Examiner John Power in San Francisco on May 6, 1954. On that occasion applicant presented evidence covering the history, finances, equipment, facilities and personnel of its organization.

The record shows the business of Burns to have existed for more than a third of a century. In August, 1943 applicant's president disposed of a partnership interest in another draying concern and

purchased Burns. He acquired two pieces of equipment with the business. Applicant now operates 102 pieces of equipment in its business.

The financial statement introduced in evidence by applicant included a March 31, 1954 balance sheet. It showed current assets of \$73,160.22 and total assets of \$177,490.16. Current liabilities were \$48,787.17, equipment obligations, \$38,535.15 and capital was \$90,167.84. Net profits were earned on draying operations (according to operating statements in evidence) in 1949-1951 inclusive, 1953 and the first quarter of 1954. In 1952 there was a slight loss measured by an operating ratio of 100.2 per cent.

Applicant introduced exhibits at the hearing on May 6 covering its traffic. This evidence was summarized in Exhibit No.17 in Case No. 5535. In the sixty days reported Burns carried 594 shipments totaling 3,369,669 pounds. These shipments averaged 5,673 pounds each. The daily average was 56,161 pounds. Numerous customers were served of whom five testified in support of this application. They represented firms in the following trades or industries: building materials, stationery, containers and chemicals. A wide variety of commodities was handled for these and other customers.

On most shipments same-day delivery is afforded. On late afternoon pickups delivery is made the following morning. There is very little rchandling of shipments and that little is interchanged between trucks, thus eliminating terminal handling.

The evidence shows that applicant has the necessary financial ability, facilities, equipment, experience and personnel to undertake the proposed service. It further shows that the growth of San Francisco-East Bay communities has increased the over-all requirements for common carrier service and has resulted in increased demand for applicant's services. Public convenience and necessity require

that the application be granted. This grant will be on the condition, however, that applicant serve the whole of the San Francisco-East Bay cartage zone as established in Case No. 5535. Acceptance of the certificate herein granted will be construed as consent to this condition.

F. J. Burns Draying, a corporation, is 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 over a particular route. This monopoly feature may be changed or destroyed 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

Application having been filed and public hearings held thereon and the Commission having considered the same and being of the opinion and finding that public convenience and necessity so require; therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to F. J. Burns Draying, a California corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code for the transportation of general commodities except used household goods as that term is defined in Section 5109 of the Public Utilities Code, petroleum products in bulk in tank vehicles, dangerous explosives, livestock and living animals between the points set forth in Appendix "A", annexed hereto and by this reference made a part of this order.

(2) That in providing service pursuant to the authority herein granted, applicant may use any and all streets, roads, highways and bridges and shall comply with the following service regulations:

- a. Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate herein granted.
- b. Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 80 by filing in triplicate and concurrently making effective tariffs satisfactory to the Commission.

The effective date of this order shall be February 1, 1955.

Dated at San Francisco, California, this 14th day of DECEMBER, 1954.

John E. Mitchell
President

Justin J. Casper

Bennett Patton

Gene Roggins

Ray L. Lutenauer
Commissioners

LIMITS OF SAN FRANCISCO-EAST BAY CARTAGE ZONE

San Francisco-East Bay Cartage Zone includes that 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 South 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 north-easterly 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.

thereof: The foregoing description includes the following points or portions

Alameda	Elkton	Oakland Pier	San Leandro
Alameda Pier	Elmhurst	Ocean View	San Lorenzo
Albany	Emeryville	Piedmont	San Mateo
Badon	Ferry Point	Point Castro	San Pablo
Bay Farm Island	Fruitvale	Point Fleming	South San Fran-
Bayshore	Government Island	Point Isabel	cisco
Berkeley	Hayward	Point Molate	Stege
Bernal	Lawndale	Point Orient	Tanforan
Brisbane	Lomita Park	Point Potrero	Treasure Island
Broadway	Melrose	Point Richmond	Union Park
Burlingame	Millbrae	Point San Pablo	Visitacion
Camp Knight	Mills Field	Richmond	Westlake
Castro Valley	Mt. Eden	Russell City	Winehaven
Colma	Oakland	San Bruno	Yerba Buena
Daly City	Oakland Municipal	San Francisco	Island
East Oakland	Airport	San Francisco Inter-	
El Cerrito		national Airport	

APPENDIX "A" (Continued)

MAP SHOWING
LIMITS OF SAN FRANCISCO - EAST BAY CARTAGE ZONE

