

Decision No. 50907**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 JACK C. HEMSATH, an individual, )  
 doing business as Jack Hemsath ) Application No. 34889  
 Drayage, for a certificate of public )  
 convenience and necessity to operate )  
 as a highway common carrier. )

Daniel W. Baker, for applicant.  
Douglas Brookman, William Meinhold and Frederick E. Fuhrman, Willard S. Johnson, William E. Shuhelm, Edward M. Berol and Bertram S. Silver, for various certificated carriers, protestants.  
Russell Bevans, for Draymen's Association of San Francisco; Maurice A. Owens, for Draymen's Association of Alameda County; Norman R. Moon, for Loretz & Co.; Vaughan, Paul and Lyons by John G. Lyons, Frank Loughran and Marvin Handler, 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 his activities. In addition, a hearing on this application alone was held before Commissioner Verne Scoggins and Examiner John Power in Oakland on May 28, 1954. On that occasion applicant presented evidence covering the history, finances, equipment, facilities and personnel of his organization.

Mr. Hemsath testified that he began operating on March 12, 1946, with a single unit of equipment and increased his operations gradually up to the present time. He attributes this in part to the

growth of the area in which he serves. He estimates that about 50 per cent of his gross revenues are derived from transbay shipments and about 40 per cent from traffic between East Bay cities.

Applicant has a terminal located in Oakland near the eastern end of the Bay bridge. The garage and offices cover about 3,000 square feet, the loading platform 600 square feet and the yard 1,400 square feet. His fleet consists of four trucks, two tractors, two semitrailer vans and a sedan. The trucks and trailers are of large capacity.

Applicant's year-end (1953) balance sheet shows current assets of \$7,576 and current liabilities of \$5,184. For some reason an asset item of U. S. Savings Bonds costing \$17,231 is not included in the current assets. The cash and government bonds figure is \$21,507, exceeding the total liabilities by more than \$8,800. The capital investment was \$38,767. Operations have been profitable, the highest operating ratio during the past five years having been 87 per cent after allowing salaries to applicant and his wife, the only office personnel, and after operating taxes but before income taxes.

Applicant described his method of operation. He estimates that about 30 per cent of shipments are transferred between trucks. Little, if any, freight is handled over the dock. Pickups are made on a twice-a-day schedule--once in the morning and once in the afternoon. Except for late pickups, same-day delivery is afforded. On late pickups, following-morning delivery is given. Applicant proposes to continue the two-pickup system. Special pickups will be made on request.

Applicant has served numerous shippers, of whom five testified in support of his application. They represented firms

which ship paint, aluminum foil, electrical insulating materials, lead products and surface coatings. Applicant's traffic exhibits reveal that numerous commodities have been carried. Weights have varied from less than 100 pounds to truckload.

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.

Applicant is 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 Jack C. Hemsath, doing business as Jack Hemsath Drayage, 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 uncrated household goods, commodities of unusual value, commodities requiring refrigeration, petroleum products in bulk in tank vehicles, fresh fruits and vegetables and livestock, between the points set forth in Appendix "A" attached 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 28th day of DECEMBER, 1954.

John E. Mitchell  
 President  
Justus J. Carver  
Harriett Fottus  
Ray L. Hutcheson

Commissioner Yorno Scoggins, being necessarily absent, did not participate in the disposition of this proceeding.

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.

The foregoing description includes the following points or portions thereof:

Alameda	Elkton	Oakland Pier	San Leandro
Alameda Pier	Elmhurst	Ocean View	San Lorenzo
Albany	Emeryville	Piedmont	San Mateo
Baden	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	Stage
Bernal	Lawndale	Point Orient	Tanforan
Erisbane	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	Winohaven
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

