

Decision No. 5535**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN V. FOX, JR., GEORGE F. FOX and)
 JOSEPH T. FOX, copartners doing)
 business as JOHN McCARTHY & SON, for) Application No. 35140
 a certificate of public convenience)
 and necessity to operate as a highway)
 common carrier.)

Edward M. Berol, Bertram S. Silver and Thomas P. Brown, for applicant.
Douglas Brookman; William Meinhold, Frederick E. Fuhrman, Willard S. Johnson, and William E. Shuholm, for various 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.; Daniel W. Baker, Marvin Handler, Frank Loughran, Arthur D. Nearon and Vaughan, Paul and Lyons by John G. Lyons, for various carriers, interested parties.

O P I N I O N

Applicants are 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 these applicants and to have materially influenced their activities. In addition, a hearing on this application alone was held before Examiner John Power in San Francisco on October 13, 1954. On that occasion applicants presented evidence covering the history, finances, equipment, facilities and personnel of their organization.

This business was commenced in 1850. The partner who testified as a witness had been connected with the firm since 1934.

Applicants are in excellent financial condition. The cash figure alone covered total liabilities many times over. A staff study (Exhibit No. 5, Case No. 5535) showed net investment of \$215,699 as of June 30, 1954. Operating results from January 1, 1949 to April 30, 1954 were introduced in evidence by applicants. They show profitable operation in all periods reported.

Applicants' operating witness testified that they have two terminals in San Francisco and sixty-six pieces of equipment. One terminal is used primarily for storage of vehicles. The other has complete facilities for trucking and warehouse operations including dock space. Twenty-two persons are employed in the operation. Twice-a-day service is the rule and dock or other rehandling is avoided when possible.

Traffic exhibits submitted by applicants reveal that a large number of consignors and consignees have been served. Witnesses representing eight of these appeared in support of the application. Thirty-eight commodities were carried in the month of April, 1953 alone. Weights have varied from 55 pounds to truckload.

The evidence shows that applicants have the necessary financial ability, facilities, equipment, experience and personnel to undertake the proposed service. It further shows that the growth of the San Francisco-East Bay community has increased the over-all requirements for common carrier service and has resulted in increased demand for applicants' services. Public convenience and necessity require that the application be granted. This grant will be on the condition, however, that applicants 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.

Applicants are 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 John V. Fox, Jr., George F. Fox and Joseph T. Fox, copartners doing business as John McCarthy & Son, 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 petroleum products in bulk in tank vehicles, uncrated household goods, livestock and commodities of unusual value 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; applicants 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, applicants 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; applicants 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 18th day of January, 1955.

[Signature]
 President
[Signature]
[Signature]
[Signature]
 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 northeasterly 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 Francisco
Bayshore	Government Island	Point Isabel	Stege
Berkeley	Hayward	Point Molate	Tanforan
Bernal	Lawndale	Point Orient	Treasure Island
Brisbane	Lomita Park	Point Potrero	Union Park
Broadway	Melrose	Point Richmond	Visitacion
Burlingame	Millbrae	Point San Pablo	Westlake
Camp Knight	Mills Field	Richmond	Winehaven
Castro Valley	Mt. Eden	Russell City	Yerba Buena Island
Colma	Oakland	San Bruno	
Daly City	Oakland Municipal Airport	San Francisco	
East Oakland		San Francisco International Airport	
El Cerrito			

APPENDIX "A" (Continued)

MAP SHOWING

LIMITS OF SAN FRANCISCO - EAST BAY CARTAGE ZONE

