

**ORIGINAL**Decision No. 51031

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PENINSULA DELIVERY SERVICE, INC., a )  
 corporation, for a certificate of )  
 public convenience and necessity as )  
 a highway common carrier between San )  
 Francisco and East Bay points. )

Application No. 35198

Frank Loughran, for applicant.  
Douglas Brookman, William Meinhold, Frederick E. Fuhrman,  
Willard S. Johnson, William E. Shuholm, Preston W. Davis,  
Roger Ramsey, 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; Norman R. Moon, for Loretz & Co.; Daniel W. Baker,  
Marvin Handler, Arthur D. Nearon, Vaughan, Paul and Lyons  
 by John G. Lyons, 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 Examiner John Power in San Francisco on September 17, 1954. On that occasion applicant presented evidence covering the history, finances, equipment, facilities and personnel of its organization.

Applicant's president, who had served it as such for ten years, testified in its behalf and presented five exhibits. Five shipper witnesses testified in support of the application. A protestant actively participated in the September 17 hearing. This

protestant presented five exhibits of its own, four of which were based on applicant's traffic exhibit.

Applicant's predecessors had been operating as highway common carriers in the San Francisco Bay area since the early 1920's. The original authority was for general commodities, with a limit of 100 pounds per shipment, between San Francisco, Menlo Park and intermediate points. Later applicant's predecessors acquired authority to carry auto parts and related products between San Francisco, Oakland and Peninsula points to San Jose.

Applicant presented exhibits to show its financial position. A balance sheet of September 30, 1953, showed a current ratio of better than three to one. Applicant's president testified that there had been no substantial change in this to the date of the hearing (September 17, 1954). Operating results filed show profitable operation for the five years reported, 1949 through 1953. Applicant had capital and surplus of \$42,862.56.

Applicant has a terminal including an office, dock and truck yard in San Francisco. Twelve trucks are owned and operated in the business. Same-day delivery is afforded on all shipments. Applicant's president stated that this type of service was what his customers wanted.

The active protestant urged that commodity limitations be imposed on this carrier. It is true that, due to applicant's certificated authority in the auto parts field, it has its largest following there. Nevertheless, it is clear from the evidence that applicant holds itself out to carry general commodities and has accepted such shipments when tendered. It is further true that applicant's authority in part of the San Francisco-East Bay Cartage Zone is general in so far as commodities are concerned, being

restricted as to weight only. Furthermore, as the Commission pointed out in Decision No. 50872 in Case No. 5535, restrictions are not desirable in such a limited area as is involved here. Lastly, the applicant is a certificated carrier of many years' standing and has demonstrated its ability to operate successfully as such. The Commission therefore is of the opinion and finds that restrictions are not desirable in this case.

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 the San Francisco-East Bay community 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, Peninsula Delivery Service, Inc., 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, such rights 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 Peninsula Delivery Service, Inc., 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 petroleum products in bulk in tank vehicles, fresh fruits and vegetables, uncrated used household goods and other articles described in Minimum Rate Tariff No. 4, livestock, commodities under refrigeration and articles of extraordinary 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, 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.

3. That any and all operating rights as a highway common carrier heretofore acquired or possessed by applicant which

duplicate to any extent the rights granted by this decision and order are hereby revoked and canceled to the extent necessary to prevent such duplication and no further, such revocation and cancellation to take effect simultaneously with the institution of the service herein authorized.

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

Dated at Los Angeles, California, this 25<sup>th</sup> day of JANUARY, 1955.

*John E. Mitchell*  
President  
*Justus J. Caswell*  
*Raulo Lintinen*  
*Thomas J. Hooley*  
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 Lynnwood 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 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	Winohaven
Colma	Oakland	San Brunc	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

