

**ORIGINAL**

Decision No. 51813

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of F. J. BURNS DRAYING, a Cali- )  
fornia corporation, for a ) Application No. 35900  
certificate of public convenience )  
and necessity to operate as a )  
highway common carrier. )

O P I N I O N

F. J. Burns Draying, a corporation, is engaged in the transportation of property in California pursuant to permits issued by this Commission.

It seeks an order authorizing it to conduct service as a highway common carrier for the transportation of general commodities, with certain exceptions, between San Francisco, San Jose and Los Gatos and between San Pablo, San Jose and Los Gatos and intermediate points.

Notice of filing of the application was given all common carriers subject to the jurisdiction of this Commission.

Upon consideration of the allegations of the application and the representations filed pursuant to the above-mentioned notice, the Commission finds that public convenience and necessity require that the application be granted as set forth in the ensuing order. It appears that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein. A public hearing is not necessary.

Applicant 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

The Commission having considered the application and representations filed herein, Now Therefore

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to F. J. Burns Draying, a corporation, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed upon notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(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 file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

The effective date of this order shall be ninety days after the date hereof.

Dated at San Francisco, California, this 9th day of August, 1955.

John E. Mitchell  
President

James J. Calmes

Ray L. Hirschman

Mark R. Ashby

P. H. Hardy  
Commissioners

Decision No. 51813  
Dated AUG 9 1955  
Application No. 35900

APPENDIX A  
Page 1 of 2

F. J. Burns Draying, a corporation, by the certificate of public convenience and necessity granted in the above-numbered decision, is authorized to transport general commodities between San Mateo and San Jose and intermediate points and between Hayward and San Jose and intermediate points.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects.
2. Automobiles, trucks and buses viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, bus chassis.
3. Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

Decision No. 51813  
Dated AUG 9 1955  
Application No. 35900

APPENDIX A  
Page 2 of 2

Applicant shall conduct operations over and along:

1. U. S. Highways 101 and 101 By-Pass between San Mateo and San Jose.
2. State Highways 9 and 17 and unnumbered highways between Hayward and San Jose.
3. State Highway 9 between Milpitas and Mountain View.
4. San Mateo Bridge and Dumbarton Bridge.