

Decision No. 58299**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DE PUE DRAYAGE CORPORATION, a corpor-)
 ation, for the removal of a restriction)
 contained in their Certificate of)
 Public Convenience and Necessity,)
 authorizing service as a highway common)
 carrier, between San Francisco, on the)
 one hand, and San Bruno, San Jose, and)
 all intermediate points along U.S.)
 Highway Nos. 101 and 101 Bypass.)

Application No. 40711

Scott Elder, for applicant.Norman R. Moon, for Highway Transport, Inc., and
Highway Transport Express, protestants.O P I N I O N

This application was filed on December 26, 1958. Public hearings were held in San Francisco before Examiner John Power on February 3 and March 3, 1959, and the matter was submitted. The protestants appeared at the February hearing. At the March hearing there was no active protest.

Applicant seeks to remove from its certificate, a provision restricting Peninsula traffic (San Bruno to San Jose, inclusive) to service for Gibraltar and Turner-Whittell warehouses, or their customers. Applicant acquired this certificate from Overland Freight Transfer Company. The ownership of these storage firms later obtained a certificate of their own to serve the Peninsula points and therefore tender no shipments to De Pue.

Applicant's president and chief stockholder has operated a contract carrier service under the style of Globe Drayage Company.

Globe has served, to Peninsula points, many of the shippers which use De Pue to other places. He testified that he prefers to, and will, discontinue the Globe operation if this application is granted unifying the entire service under applicant's common carrier operation.

Applicant has dock space, office space and overnight storage space available to it at the De Pue warehouse. This public warehouse is under separate ownership and is applicant's largest customer. The dock will accommodate twenty trucks at a time. Applicant owns a shop and garage at another location. Applicant owns 14 tractors, 14 trailers, 11 trucks and 6 miscellaneous pieces to make up 45 units of equipment.

The financial condition of applicant is excellent. All four corporation officers serve the applicant full time. Fourteen persons are employed full time and up to ten part-time employees as needed.

Two public witnesses testified for applicant. The applicant offered to call five others but the testimony of these was excluded on the ground that it would be cumulative. Those present included a public warehouse (De Pue) partner and the shipping supervisor of a wine and brandy shipper. The other witnesses ready to testify included a customs broker and representatives of a diesel engine producer, an automobile dealer, a stationery and office furniture dealer, and a dealer in floor coverings. The customs broker and the warehouseman ship almost any commodity.

The Commission finds and concludes that public convenience and necessity require that the sought authority be granted. Applicant's present operating authority should and will be restated in current form. This restatement will include standard commodity

exceptions. Such standard exceptions will involve a small partial revocation of applicant's present operating authority. Applicant is placed on notice that such partial revocation will be restored if applicant so requests in writing within ninety days of the effective date hereof. If no such request is received, applicant will be deemed to have consented to such revocation.

Applicant is hereby placed on 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 modified or canceled 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, public hearings held and the Commission basing its decision upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

(1) A certificate of public convenience and necessity is granted to De Pue Drayage 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 more particularly set forth in Appendices A and B attached hereto and made a part hereof.

(2) 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 of this order, 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 on 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 on not less than ten days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

(3) All present operating authority of applicant as a highway common carrier is hereby revoked and canceled, such cancellation to take effect simultaneously with the commencement of service under the authority herein granted. The revocation and cancellation of authority herein includes all present operating authority of applicant including, but not limited to, the authorities created by the following decisions: No. 47391 in Application No. 32112 and No. 51204 in Application No. 36066.

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

Dated at San Francisco, California, this 21st day of April, 1959.

E. Leo Fox
President
Walter J. ...
Theodore ...
Commissioners

Commissioner Walter C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

De Pue Drayage Corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

- A. All points and places in the San Francisco-East Bay Cartage Zone as shown on Appendix B hereto attached and made a part hereof.
- B. San Francisco-East Bay Cartage Zone and San Jose, including all intermediate points on or within one mile of U.S. Highways Nos. 101 and Bypass 101, also including the whole of any incorporated city intersected by said highways.
- C. San Francisco-East Bay Cartage Zone, Crockett and intermediate points on U.S. Highway No. 40. This authority in Paragraph C is subject to the limitation that no shipment shall be transported unless it weighs 20,000 pounds or bears a charge applicable to a shipment of 20,000 pounds or more.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
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 and 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 refrigerator equipment.

Issued by California Public Utilities Commission.

Decision No. 58299, Application No. 40711.

5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers 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.
8. High explosives.

Issued by California Public Utilities Commission.

Decision No. 58299, Application No. 40711.

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
Padon	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 "B" (Continued)

MAP SHOWING

LIMITS OF SAN FRANCISCO - EAST BAY CARTAGE ZONE

