

Decision No. 60122

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MICHAEL T. McINERNEY, doing business)
as M & N TRUCK LINE, for a certifi-)
cate of public convenience and)
necessity to operate as a highway)
common carrier.)

Application No. 41849

Frank Loughran, attorney, for applicant.

O P I N I O N

Michael T. McInerney, doing business as M & N Truck Line, is operating under permitted authority as a radial highway common carrier, a contract carrier and a city carrier. The applicant also operates as a highway common carrier under a certificate of public convenience and necessity granted by Decision No. 53652, dated August 28, 1956, in Application No. 36534, which authorizes the transportation of electrical appliances or equipment or parts, paint and paint materials, heaters, tire reliners, and welding materials between Oakland, Emeryville, Berkeley and Richmond on the one hand, and on the other hand, San Francisco, San Mateo, Burlingame, San Carlos, Redwood City, Menlo Park, Palo Alto, Los Altos, Mountain View, Sunnyvale, Santa Clara, San Jose and Campbell.

Applicant now requests a certificate of public convenience and necessity pursuant to Section 1063 of the Public Utilities Code, in lieu of, and as an extension of, applicant's existing certificate, authorizing applicant to perform transportation of general commodities, with the usual exceptions, to and between all points specified in Appendix B hereto which is by this reference made a part hereof.

A public hearing was held before Examiner Edward G. Fraser, on March 21, 1960, at San Francisco, California. No one appeared in protest to the authority requested.

Since 1956, when applicant was certificated by Decision No. 53652, there has been considerable industrial growth in the areas to which an extension now is requested. The applicant has customers who desire service into this extended area, and likewise they desire split pickups and split deliveries to be made therein.

The shipper witnesses who testified indicated that it would be beneficial to their respective companies to have applicant provide this additional service.

The evidence further discloses that applicant is able to supply the extended service. He has adequate equipment, he has had the necessary experience, and financially his position is sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order which will provide for an in lieu certificate combining all of applicant's operating authority.

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

A public hearing having been held, and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Michael T. McInerney, an individual, doing business as M & N Truck Line, authorizing him 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 as more particularly set forth in Appendix A and Appendix B 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 on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, 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 the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. That the operating authority granted by Decision No. 53652 is hereby canceled, said cancellation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at Los Angeles, California, this 17th day of May, 1960.

Cecil R. [Signature]
 President

[Signature]

[Signature]

Commissioners

Matthew J. Dooley
 Commissioner & Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.

Michael T. McInerney, 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 described in Appendix B attached hereto.
- (b) All points and places on U. S. Highways 101 and 101 By-Pass between San Mateo and San Jose including all points laterally within five air miles of U. S. Highways 101 and 101 By-Pass.
- (c) All points and places on State Highways 9 and 17 between Hayward and San Jose including all points laterally within five air miles of State Highways 9 and 17.
- (d) All points and places located within a radius of ten air miles of San Jose.
- (e) All points and places in the San Francisco-East Bay Cartage Zone as described in Appendix B attached hereto, on the one hand, and all points and places designated in paragraph (b), (c) and (d), on the other hand.

Service to, from or between points located laterally from the above highways may be performed by any and all available roads, highways or streets. Service between points within the San Francisco-East Bay Cartage Zone may be performed via any and all available streets and highways including connecting streets and highways.

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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.
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. Logs.
9. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

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The San Francisco-East Bay Cartage Zone includes the 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 South 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 By-Pass); 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

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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.

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