

ORIGINAL

Decision No. 40751

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 John A. Peterson, Ellen Peterson,)
 Arthur Peterson and Lloyd W. Vivell,)
 a copartnership doing business as)
 Nickols Transportation Co., to sell) Application
 and transfer their operative properties) No. 28662
 and rights to Henry J. Nickols, an)
 individual.)
 -----)

Reginald L. Vaughan and John G. Lyons,
 for applicants.
W. G. Westman, for Bay Cities Transportation
 Company, interested party.
J. H. Anderson, for The River Lines,
 interested party.

O P I N I O N

By Decision No. 39761, dated December 23, 1946, as amended by Decision No. 40168, dated April 15, 1947, the Commission authorized Henry J. Nickols to sell and transfer his intra-state operative rights⁽¹⁾ and properties used in connection therewith and described in Exhibit "2" attached to Exhibit "A" in Application No. 27946, to John A. Peterson, Ellen R. Peterson, Arthur R. Peterson and Lloyd Walter Vivell, copartners doing business as Nickols Transportation Co. They agreed to pay for the properties \$110,000. Of this sum, \$20,000 was to be paid in cash and \$90,000 was to be represented by a note payable in monthly

(1) Defined by Decision No. 30483, dated January 3, 1938, and by Decision No. 30663, dated February 28, 1938, in Case No. 4257.

installments of \$1,200 with interest at 5% on the unpaid balance. The payment of the note was to be secured by a chattel mortgage.

The testimony shows that the copartners have defaulted in the payment of the note.

In this application, the copartners ask permission to transfer to Henry J. Nickols the properties acquired from him under the authority granted by said Decision No. 39761, as amended by said Decision No. 40168. Aside from the operative rights and business, the properties consist of the Tug Fox, the Tug Wm. Fisher, Barge #5, Barge Kongo, Barge #57, Barge #103, and miscellaneous vessel equipment and office furniture. Upon the transfer of the properties Henry J. Nickols will forego and forgive any indebtedness due him by the copartners, or any of them, which indebtedness, without interest, amounts to approximately \$95,775.

The copartnership acquired the properties on May 1, 1947, and conducted business under the name of Nickols Transportation Co. during May, June and July. On August 1, 1947, the copartners turned over to Henry J. Nickols the management of all properties proposed to be transferred to him. To protect his interest in the properties he has been operating them since August 1, 1947. The record shows that there has been no cessation of service, and that there has been a demand for the service.

No one protested the granting of this application.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

The Commission having considered the evidence submitted at the hearing had on this application before Examiner Fankhauser and it being of the opinion that the application should be granted, therefore,

IT IS HEREBY ORDERED that John A. Peterson, Ellen Peterson, Arthur Peterson and Lloyd W. Vivell, a copartnership, may sell and transfer to Henry J. Nickols, on or before December 31, 1947, the operative rights, business and properties referred to in the foregoing opinion and more particularly described in the agreement of sale on file in this application as Exhibit "A", as modified by the amendment to the application filed on September 22, 1947.

IT IS HEREBY FURTHER ORDERED that Henry J. Nickols shall, immediately upon the transfer of the properties involved and on not less than one (1) day's notice to the Commission and to the public, supplement or reissue the tariff on file with the Commission insofar as it names rates, rules and regulations covering the common carrier operations of John A. Peterson, Ellen R. Peterson, Arthur R. Peterson and Lloyd Walter Vivell, doing business as Nickols Transportation Co., to show that said John A. Peterson, Ellen R. Peterson, Arthur R. Peterson and Lloyd Walter Vivell have withdrawn or canceled and that Henry J. Nickols has

concurrently adopted or established as his own said rates, rules and regulations. The tariff filing made pursuant to this order shall in all other respects comply with the Commission's Tariff Circular No. 2.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the transfer of said properties, Henry J. Nickols shall file with the Commission a copy of the deed or other instrument of transfer under which he has acquired and holds title to said properties.

IT IS HEREBY FURTHER ORDERED that this order is effective twenty (20) days after the date hereof.

Dated at Los Angeles, California, this 30th day of September, 1947.

Harold P. Kula
Justus J. Gamm
W. H. Powell
A. Z. Anderson
Samuel Potter
Commissioners