

Decision No. 51531

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Frank L. Nolan (Jr.) and Mary F. Bartholomew, copartners doing business as FRANK NOLAN DRAYAGE CO., to reflect change in name of owner of certificates.

Application No. 36818

In the Matter of the Application of Frank L. Nolan (Sr.) doing business under the firm name and style of FRANK NOLAN DRAYAGE COMPANY, for a certificate to operate a warehouse.

Application No. 15212

In the Matter of the Application of Frank L. Nolan (Jr.), an individual doing business as FRANK NOLAN DRAYAGE CO., for a certificate of public convenience and necessity to operate as a highway common carrier.

Application No. 35417

O P I N I O N

It appears by the verified application that applicants are presently the holders of two certificates of public convenience and necessity issued by the Commission. One is a warehouse certificate issued on August 30, 1929 to Frank L. Nolan (Sr.) by Decision No. 21503 in Application No. 15212. The other is a certificate for highway common carriage granted January 25, 1955 by Decision No. 51026 in Application No. 35417 to Frank L. Nolan (Jr.). The firm name in each case is and has been "Frank Nolan Drayage Company."

It further appears that the elder Nolan died in 1943. In 1945 the estate, including the public warehouse business, was

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distributed to the decedent's widow and son (Frank Nolan Jr.) one-half to each. The widow's half passed to Mary F. Bartholomew in 1951. Both certificates are now operated by the present owners as copartners.

The Commission is of the opinion that Decision No. 51026, supra, can be amended to reflect the true ownership of the certificate granted. The present warehouse operative right will be canceled and a new certificate granted to the partners now operating the warehouse. No public hearing is necessary. Public convenience and necessity for both businesses has been established previously and still exists. The following order will be made effective on its date.

Applicants are 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, the Commission having considered the matter and being of the opinion and finding that a public hearing is not necessary and that the application should be granted as herein provided; therefore,

#### IT IS HEREBY ORDERED:

1. That ordering paragraph No. (1) of Decision No. 51026, dated January 25, 1955, in Application No. 35417, is hereby amended

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by striking therefrom a comma and the words "an individual" following the words "Frank L. Nolan" in line 2 of said paragraph and inserting in the place and stead of the words and punctuation so stricken, the following: "and Mary F. Bartholomew, copartners,".

2. That in providing service under the authority created by said Decision No. 51026 as herein amended Frank L. Nolan and Mary F. Bartholomew, as copartners, shall comply with the following service regulations:

- a. Within thirty days after the effective date of this order, applicants shall file in Application No. 35417 an amended written acceptance of the certificate granted by Decision No. 51026 showing acceptance of said certificate by both applicants as copartners.
- b. Within sixty days after the effective date of this order and upon not less than five days' notice to the Commission and the public, Frank L. Nolan as an individual and Frank L. Nolan and Mary F. Bartholomew as copartners shall supplement or reissue the tariffs on file with the Commission insofar as they name rates, rules and regulations governing highway common carrier operations of Frank L. Nolan as an individual, to show that he has withdrawn and cancelled and that Frank L. Nolan and Mary F. Bartholomew as copartners have concurrently adopted or established as their own said rates, rules and regulations and that the tariff filings made pursuant to this order shall in all respects comply with the provisions of the Commission's General Order No. 80.

3. That a certificate of public convenience and necessity authorizing operations as a warehouseman, as defined in section 239 of the Public Utilities Code be and it hereby is granted to Frank L. Nolan and Mary F. Bartholomew as copartners for the operation of not more than 25,000 square feet of warehouse space in the City and County of San Francisco.

4. That in providing service pursuant to the certificate granted in paragraph 3 of this order, applicants shall comply with the following service regulations:

- a. Within thirty days after the effective date of this order applicants shall file a written acceptance of the certificate herein granted.

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- b. Within ninety days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicants shall establish the service herein authorized and comply with the provisions of General Order No. 61 by filing in duplicate, and concurrently making effective, appropriate tariffs.

5. The operating authority heretofore possessed by Frank L. Nolan (not one and the same person as the applicant of the same name) by reason of operations conducted by him on and before August 2, 1927 and stated and defined by the Commission in Decision No. 21503, dated August 30, 1929, in Application No. 15212, are hereby revoked and cancelled, said revocation and cancellation to take effect simultaneously with the establishment of service under the authority referred to in paragraphs 3 and 4 of this order.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this

31st day of May 1955.

W. E. Mitchell  
President  
Robert L. Anderson  
Walter H. Brown  
P. H. Jones  
Commissioners