

Decision No. 52684

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Frank L. Nolan and Mary F. Bartholomew,)
co-partners, d.b.a. Frank Nolan Drayage)
Co., for authorization to transfer, and)
Milton J. Daly, doing business as)
Hawaiian Express & Dillon Drayage Co.)
for authorization to acquire certifi-)
cate to operate public warehouse.)

ORIGINAL

Application No. 37580.

OPINION AND ORDER

Frank L. Nolan and Mary F. Bartholomew, partners doing business as Frank Nolan Drayage Co., conduct public utility warehouse operations at San Francisco under a certificate of public convenience and necessity granted by Decision No. 51531 of May 31, 1955, in Applications Nos. 36818, 15212 and 35417. By this application they seek authority to sell the operative right to Milton J. Daly, doing business as Hawaiian Express & Dillon Drayage Co., for a cash consideration of \$5,500, of which the sum of \$50 is for the certificate and the balance of \$5,450 is for good will.

The application shows that Frank Nolan Drayage Co. wishes to withdraw from the warehouse business. It further shows that Hawaiian Express & Dillon Drayage Co. operates as a highway common carrier and desires to acquire the warehouse operation to complement that operation. According to the application, Hawaiian Express & Dillon Drayage Co. possesses the ability to render adequate service to the public in the warehouse operation. No change is proposed in the service available to the public nor in the rates, rules and regulations applicable thereto.

Interested parties have been notified of the filing of the application. No objection to its being granted has been received.

In the circumstances, it appears, and the Commission finds, that applicants' proposal is not adverse to the public interest and that the sought authority should be granted. A public hearing is not necessary.

Milton J. Daly, doing business as Hawaiian Express & Dillon Drayage Co., 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 consideration for such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be changed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Therefore, good cause appearing,

IT IS HEREBY ORDERED:

(1) That Frank L. Nolan and Mary F. Bartholomew, doing business as Frank Nolan Drayage Co., may transfer to Milton J. Daly, doing business as Hawaiian Express & Dillon Drayage Co., the warehouse operative right granted by Decision No. 51531 of May 3, 1955, in Applications Nos. 36818, 15212 and 35417.

(2) That within sixty days after the effective date hereof, on not less than five days' notice to the Commission and the public, applicants shall amend tariffs on file with the Commission naming rates, rules and regulations governing the operations here involved to show that Frank L. Nolan and Mary F. Partholomew, doing business as Frank Nolan Drayage Co., have withdrawn and that Milton J. Daly, doing business as Hawaiian Express & Dillon Drayage Co., has adopted as his own said rates, rules and regulations.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 28th day of FEBRUARY, 1956.

[Signature]
President
[Signature]
[Signature]
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Commissioners