

ORIGINAL

Decision No. 65634

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, d/a FRANK NOLAN DRAYAGE
 CO., a co-partnership, and MOTOR
 TRANSPORT TERMINALS, INC., a
 California corporation, to purchase
 a certificate of public convenience
 and necessity as a highway common
 carrier.

Application No. 45415

O P I N I O N

Frank L. Nolan, Jr., and Mary F. Bartholomew, doing business as Frank Nolan Drayage Co., request authority to sell and transfer, and Motor Transport Terminals, Inc., requests authority to purchase and acquire certain highway common carrier operating authority.

The rights were granted by Decision No. 51026 in Application No. 35417 and Decision No. 51531 in Applications Nos. 35417 and 36815 and authorize the transportation of general commodities with certain exceptions within the San Francisco Cartage Zone.

The agreed cash consideration for the authority and good will is \$4,500, payable upon the approval of this Commission and the Interstate Commerce Commission. As of December 31, 1962, applicant buyer indicated a net worth in the amount of \$103,550.90.

It is alleged that the copartnership between applicant sellers has been dissolved and that no operations under the authority herein considered have been performed for the past month.

On May 23, 1963 a petition to intervene in the instant proceeding was filed by California Motor Transport Co., Delta Lines, Inc., Fortier Transportation Company, Merchants Express of California, Pacific Motor Trucking Company and Willig Freight Lines. They alleged that they were presently serving the area covered by the application and were providing a service fully adequate for the needs of the shipping public; that they are ready, willing and able to satisfy any needs for service within the area; and that the public interest would not be served by the revival of this dormant certificate.

The Commission by Decision No. 63300, dated February 20, 1962, in Application No. 43901, held as follows:

"In a transfer proceeding the Commission is primarily concerned with determining whether the proposed transfer would be adverse to the public interest and not in determining whether a more competent carrier would unbalance the competitive status among the existing carriers. Protestants' offer to adduce evidence on the issue of public convenience and necessity would constitute a collateral attack upon the decisions heretofore rendered by the Commission finding that public convenience and necessity support the instant operation. The motion of protestants will be denied."

By Decision No. 65427, dated May 21, 1963, in Application No. 45291, the Commission again stated its position. The petition to intervene will be denied.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1963, Frank L. Nolan, Jr., and Mary F. Bartholomew, may sell and transfer, and Motor Transport Terminals, Inc., may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Motor Transport Terminals, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Motor Transport Terminals, Inc., shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all

respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

4. The petition to intervene is hereby denied.

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

Dated at San Francisco, California, this 2nd day of July, 1963.

George E. Trover
President

[Signature]
[Signature]

Fredrick B. Haloboff

William W. Bennett
Commissioners