

Decision No. 81433**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NIELSEN FREIGHT LINES,
a California corporation, and YREKA
WESTERN RAILROAD COMPANY, a California
corporation, to transfer the certifi-
cate of public convenience and necessity
of Yreka to Nielsen, and for interim
relief for Nielsen to lease and tempo-
rarily operate Yreka authority.

Application No. 53840
(Filed February 13, 1973;
amended April 9, 1973)

O P I N I O N

By Application No. 53840, applicant Yreka Western Railroad Company (Yreka) requests authority to transfer, and applicant Nielsen Freight Lines (Nielsen) requests authority to acquire, those portions of Yreka's operating rights granted by Decision No. 73507 issued December 19, 1967 in Application No. 49403, which are detailed in Exhibit 3, page 3, of the Purchase and Sale Agreement for Motor Carrier Operating Rights appended to the application as Appendix A. The agreement provides for the payment by Nielsen to Yreka of a total consideration of \$15,000. Of this sum, \$5,000 is for operating rights of Yreka, of which \$3,000 is allocated for the interstate rights and \$2,000 is allocated for the intrastate rights, and \$10,000 is for a covenant by Yreka not to compete with Nielsen in the area encompassed by the operating authority proposed to be transferred for a period of five years from the closing date.

Applicants allege that the portions of Yreka's authority which Nielsen seeks to purchase are unprofitable to Yreka due to the lack of demand in the area involved, the high cost of serving the sparsely-populated remote areas, and the infrequent service actually performed by Yreka.

The requisite balance sheets and income statements of both applicants are appended to the application as Appendix F.

By Decision No. 81213 issued in Application No. 53840 on March 27, 1973, this Commission by interim order authorized Nielsen to lease from Yreka for a period of time ending on or before July 30, 1973 the portions of its operating rights which Yreka seeks to transfer to Nielsen by this application.

By order dated March 16, 1973 and effective March 30, 1973, the Interstate Commerce Commission has authorized Nielsen to purchase the portion of the interstate operating rights of Yreka described in the Appendix A attached to the application.

Applicants filed a petition for final decision with this Commission on April 5, 1973, and on April 9, 1973 Nielsen filed an amendment thereto. In the amendment Nielsen alleges that Nielsen's operation of the Yreka authority, both during any temporary authority and after consummation of the sale, under Nielsen's present tariffs, Western Motor Tariff Bureau 107 and 111, is an express condition of the consummation of the transaction.

Nielsen further alleges that failure to permit the published tariffs of Nielsen to prevail over those of Yreka will cause numerous incidents of inconsistencies and technical problems to Nielsen and that it will be of greater convenience and business efficiency to Nielsen to permit it to continue to deal with its present tariff agency. The inconsistencies relate primarily to rules and regulations in the tariff and not generally to the substance of charges or rates.

No protests to the granting of the application have been filed with this Commission.

The Commission finds that:

1. A public hearing is not required.

2. The application shows with reasonable certainty that the proposed transfer involved in this proceeding will not have a significant effect on the environment.

3. The proposed transfer will not be adverse to the public interest.

4. The proposed increases in rates and charges which will result from the operation of the intrastate Yreka rights proposed to be acquired by Nielsen under Nielsen's present tariffs are justified.

The Commission concludes that:

1. The proposed transfer by Yreka to Nielsen of those portions of Yreka's authority detailed in Appendix A of Decision No. 81213 issued by the Commission on March 27, 1973 should be authorized.

2. Nielsen should be authorized to file for the operation of such authority under its present tariffs, Western Motor Tariff Bureau tariffs 107 and 111.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by the applicants and the issuance of certificates in appendix form to Nielsen Freight Lines and Yreka Western Railroad Company.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before September 30, 1973, Yreka Western Railroad Company may sell and transfer, and Nielsen Freight Lines may purchase and acquire, the operative rights for which authorization to transfer is requested in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Nielsen Freight Lines shall amend or reissue its present tariffs, Western Motor Tariff Bureau tariffs 107 and 111, on file with the Commission, naming rates and rules governing the common carrier operations herein. Yreka Western Railroad Company shall also amend or reissue its tariffs on file, naming rates and rules governing the common carrier operations authorized herein. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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-Series. Failure to comply with and observe the provisions of General Order No. 80-Series may result in a cancellation of the authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, certificates of public convenience and necessity are granted to Nielsen Freight Lines and Yreka Western Railroad Company, as set forth in Appendix A and Appendix B, respectively, attached to and made a part of this order.

5. The certificates of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificates of public convenience and necessity granted by:

<u>Decision No.</u>	<u>Dated</u>	<u>Application No.</u>
54207	12/4/56	38486
59472	1/5/60	41300
60377	7/5/60	41912
62447	8/22/71	41397
68585	2/9/65	47171
72181	3/21/67	48975
74082	5/7/68	48547
73507	12/19/67	49403
81130	3/13/73	53791

which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfer herein authorized is consummated, applicants shall file a written acceptance of the certificates. Applicants are placed on notice that, if they accept the certificates, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to

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transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 30th day of MAY, 1973.

William L. Starnes
President
William L. Starnes
William L. Starnes
William L. Starnes
Commissioners

Nielsen Freight Lines, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities subject to the exceptions noted herein:

I. SUBJECT TO COMMODITY RESTRICTIONS 1 THRU 9.

1. Between points and places in the San Francisco-East Bay Cartage Zone, as described below, via all highways, streets, roads, San Francisco-Oakland Bay Bridge and San Mateo Bay Bridge.
2. Between points and places located on or within three miles of the following routes:
 - a. Between Novato and Willits via U.S. Highway 101 and the off-route points of West Windsor and Talmadge.
 - b. Between Ignacio Junction and Santa Rosa via State Highways 12 and 37.
 - c. Between Schellville and Sonoma-Napa County Line via State Highways 37 and 12.
 - d. Between Schellville and Kenwood via unnumbered county highway through El Verano and Glen Ellen.
 - e. Between Petaluma and Sonoma via unnumbered county highways.
 - f. Between Sonoma and State Highway 37 via unnumbered county highways through Vineburg.
 - g. Between U.S. Highway 101 and Vallejo via State Highway 37 (Black Point Cut-off).

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3. Between points and places in the San Francisco-East Bay Cartage Zone, as described below, on the one hand, and points and places described in paragraph 2 hereof, on the other hand, via the following routes:
 - a. U.S. Highway 101 between San Francisco-East Bay Cartage Zone, as described below and Novato.
 - b. Between Richmond and San Rafael via San Rafael Bridge.
 - c. Between Richmond and junction State Highway 48 via U.S. Highway 40 or between Richmond and junction State Highway 29 via U.S. Highway 40, thence via State Highway 29 to its intersection with State Highway 48, thence via State Highway 48 between said junction and junction State Highway 37.
 - d. Via all routes described in paragraphs 1 and 2 hereof.
4. Between all points on the following routes:
 - a. U.S. Highway 101 between San Francisco and Novato including the off-route points of Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo, Fairfax, Sausalito, Belvedere, Tiburon, California City, San Quentin, McNear Beach, China Camp, Santa Venetia, Rafael Village, St. Vincents, Hamilton Field and points intermediate thereto.
 - b. State Highways 12 and 37 between Schellville and Napa, inclusive.
 - c. State Highways 48 and 29 between Sears Point and Napa including State Hospital.
 - d. Interstate Highway 80 and State Highway 29 between Richmond and Vallejo, inclusive.
5. Between points and places in Napa and Sonoma counties as follows:
 - a. All points on California State Highway 12 between Santa Rosa and Graton.

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- b. All points on unnumbered highway between Cotati and Sebastopol via Cunningham.
 - c. All points on California State Highway 29 between Napa and Calistoga.
 - d. All points on unnumbered highways between Calistoga and Santa Rosa.
 - e. From Petaluma to Two Rock via unnumbered highways.
6. Between San Mateo and San Jose and intermediate points on U.S. Highways 101 and State Highway 82; between Hayward and San Jose and intermediate points on State Highways 9 and 17; and between all points laterally within five miles of said highways, via said highways and all connecting routes.

II. SUBJECT TO COMMODITY RESTRICTION 1 THRU 3, 5 THRU 13 AND 15.

- 1. Between all points and places on and within five miles laterally of the following routes:
 - (a) U.S. Highway 101 between Scotia and Trinidad, inclusive;
 - (b) State Highway 299 between the junction of said highway with U.S. Highway 101 and Burnt Ranch, inclusive;
 - (c) State Highway 96 between Willow Creek and Hoopa, inclusive;
 - (d) Rohnerville Road between Fortuna and Hydesville, inclusive, via Rohnerville;
 - (e) State Highway 36 between Hydesville and Carlotta, inclusive;

III. SUBJECT TO COMMODITY RESTRICTION 1, 3, 5, 11 AND 14.

- 1. Between all points and places located on and within ten miles laterally of U.S. Highway 101 between Crescent City and Laytonville, inclusive, subject to the restriction set forth in paragraph 4, below.

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2. Between all points and places enumerated in subparagraph 1 of this paragraph, on the one hand, and, on the other hand, the San Francisco Territory as described below, subject to the restriction set forth in paragraph 4 of this paragraph.

3. Nielsen Freight Lines, is authorized to operate over the following route for operating convenience only:

Interstate Highway 80, streets and unnumbered roads or highways connecting with Richmond - San Rafael Bridge, over said Bridge, unnumbered roads or highways connecting with U.S. Highway 101.

4. Applicant shall not serve the following points and areas:

All points on State Highway 36 east of Carlotta, and all points on county roads from junction of State Highway 36 and county road near Bridgeville to Fort Seward, Alderpoint and Zenia.

- IV. Transportation of dormant nursery stock, potted plants and cut flowers between McKinleyville and Eureka and points within three miles of Eureka, on the one hand, and, on the other hand, Santa Rosa and San Jose and intermediate points via Napa, Vallejo, Oakland, Hayward, Petaluma and San Francisco. To perform the transportation herein authorized, the applicant shall conduct operations over and along the following routes:

Over U.S. Highway 101 between McKinleyville and San Jose; over State Highway 82 between San Francisco and San Jose; over State Highway 12 between Santa Rosa and Napa; over State Highway 29 between Napa and Vallejo; over Interstate Highway 80 between Vallejo and Oakland; over State Highways 17 and 238 and Interstate Highway 680 between Oakland and San Jose; over Interstate Highways 50 and 80 between Oakland and San Francisco; and over State Highway 92 between Hayward and San Mateo (San Mateo - Hayward Toll Bridge).

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The carrier shall not transport any of the following shipments specifically referred to in Paragraphs I, II & III.

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
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.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

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10. Commodities requiring special equipment and handling because of unusual size, weight, or shape.
11. Articles of extraordinary value, viz: Bank bills, coin or currency, deeds, drafts, notes or valuable papers of any kind; jewelry, including costume or novelty jewelry; postage stamps or letters and packets of letters with or without postage stamps affixed; precious articles of extraordinary value.
12. Explosives.
13. Commodities injurious or contaminating to other lading.
14. Wood chips, in bulk.
15. Commodities requiring special equipment and handling because of unusual size, weight or shape.

SAN FRANCISCO-EAST BAY CARTAGE ZONE

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 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 State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92

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to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 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 Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) 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 shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero

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Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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Yreka Western Railroad Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

1. Lumber:

Between the George M. Huff and E. J. Hjertager lumber mills located approximately five and eleven miles, respectively, southeast of Etna, Siskiyou County, on county roads designated as East Side and West Side Callahan roads, on the one hand, and Yreka, on the other hand.

2. General Commodities:

Between all points and places on and within five miles laterally of the following routes:

- (a) State Highway 96 between Somes Bar and the junction of said highway with Interstate 5, inclusive;
- (b) Somes Bar Etna Road between Somes Bar and Forks of Salmon, inclusive;
- (c) Unnumbered highway between Happy Camp and Gray Eagle Mine, inclusive;
- (d) State Highway 3 between Etna and the junction of said highway with Interstate Highway 5, inclusive, via Greenview and Fort Jones;
- (e) Interstate Highway 5 between the junction of said highway with State Highway 3 and Hornbrook, inclusive; and
- (f) Between Montague and Yreka inclusive, via State Highway 3 and unnumbered road.

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Except that pursuant to the authority herein granted, carrier shall not transport any shipment of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
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.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. 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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring special equipment and handling because of unusual size, weight or shape.

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10. Articles of extraordinary value, viz: Bank bills, coin or currency, deeds, drafts, notes or valuable papers of any kind; jewelry, including costume or novelty jewelry; postage stamps or letters and packets of letters with or without postage stamps affixed; precious articles of extraordinary value.
11. Explosives.
12. Commodities injurious or contaminating to other lading.

(END OF APPENDIX B)

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