

Decision No. 83390

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
Lauritzen Tug and Barge, Incorporated,
a corporation, to purchase, and of
Nickols Transportation Company,
Incorporated, to sell and transfer
its intrastate operating rights for
the water transportation of general
commodities between points of San
Francisco Bay and its tributaries,
pursuant to Section 851-853 of the
California Public Utilities Code.

Application No. 54846
(Filed May 3, 1974)

O P I N I O N

Nickols Transportation Co., Inc. requests authority to sell and transfer, and Lauritzen Tug & Barge, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity to operate as a common carrier by vessel.

The prescriptive operative right to operate as a common carrier by vessel was issued by order in Decision No. 30483 to John Nickols and Henry Nickols, doing business as Nickols Transportation Company. The said prescriptive operative right was transferred to Nickols Transportation Co., Inc. by Decision No. 68220 in Application No. 47047.

Nickols Transportation Co., Inc. has not operated tugboats since prior to August 13, 1968 at which time the operative right, the subject of this application, was suspended. Said operating right is the only asset of Nickols Transportation Co., Inc.

Purchaser is presently engaged in the business of contract hauling for hire by tugboats and barges serving San Francisco Bay and tributaries. It seeks to acquire the operating right which is the subject of this application because it is an operating tug and

barge business and seeks to offer to the public the services encompassed by said operating right.

Notice of the proposed sale was served upon Bay Cities Transportation Co., Harbor Carriers, Inc., and the Petaluma and Santa Rosa Railroad Co. There were no protests.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the prescriptive operative right presently held by Nickols Transportation Co., Inc. and the issuance of a certificate in appendix form to Lauritzen Tug & Barge, Inc.

Purchaser is 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 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. This monopoly feature may be modified or canceled 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

IT IS ORDERED that:

1. On or before December 1, 1974, Nickols Transportation Co., Inc. may sell and transfer the operative rights referred to in the application to Lauritzen Tug & Barge, Inc.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. 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. 117-Series. Failure to comply with the provisions of General Order No. 117-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Lauritzen Tug & Barge, Inc., a corporation, authorizing it to operate as a common carrier by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 30483 and acquired by Decision No. 68220 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the insurance requirements of the Commission's General Order No. 111-Series.

8. Purchaser shall maintain its 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 its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 4th day of SEPTEMBER, 1974.

Vernon L. Stevenson
President
William J. ...
William J. ...
...
...
Commissioners

Lauritzen Tug and Barge, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a Common Carrier by vessel as defined in Sections 211(b) and 238 of the Public Utilities Code for the transportation of:

1. Property of all kinds between Delta points.
2. Property of all kinds between Delta points and Stockton.
3. Potatoes, Onions, Grain, Millfeeds, Hay and Live-stock from Delta points on one hand to points of San Francisco Bay, San Pablo Bay, Suisan Bay and to Petaluma and Sacramento.
4. Grain in lots of not less than 80,000 pounds from Stockton to Vallejo and San Francisco and in lots of not less than 100,000 pounds between Stockton and Port Costa.
5. Castings from Stockton to Pittsburg, in lots of not less than 10,000 pounds.
6. Hay from points on San Pablo and Suisun Bays to Stockton.
7. Beans, in lots of not less than 30,000 pounds from Stockton to San Francisco.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 83390, Application No. 54846.