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Decision No. 83546

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
NIELSEN FREIGHT LINES, INC., a)
California corporation, for a)
certificate of public convenience)
and necessity extending highway)
common carrier service.)

Application No. 54586
(Filed January 18, 1974)

O P I N I O N

Applicant operates as a certificated highway common carrier of general commodities under authority of Decision No. 81433 in Application No. 53840. Its service area includes the San Francisco-East Bay Cartage Zone on U.S. Highway 101 between Novato and Willits; Schellville to Sonoma-Napa County Line on State Highways 37 and 12, between Petaluma and Sonoma, and between U. S. Highway 101 and Vallejo via State Highway 37 (Black Point cut-off). It also operates as a statewide hauler of general commodities under the authority of a radial highway common carrier permit.

Applicant has requested an extension of authority north to the California-Oregon border and into Lake, Sonoma, Napa, and Mendocino Counties subject to various commodity restrictions. Protests were filed by Associated Freight Line and Pasha Truckaway. Applicant filed an amendment to the application on May 28, 1974 and both protests were withdrawn.

Applicant is a California corporation with headquarters in Petaluma, California. It will provide a scheduled service on Monday through Friday. Service will not be performed on Saturdays, Sundays, or holidays. The rates charged will conform to those

included in Western Motor Tariff Bureau Tariffs 107 and 111, which applicant presently utilizes, and through rates and routes will be established between all points served. Applicant's operating equipment includes 67 tractors, 147 trailers, and 62 bobtails. Applicant's balance sheet as of September 30, 1973 shows total current assets of \$693,420 and total current liabilities of \$217,932. Retained earnings for the first nine months of 1973 amount to \$209,196, and retained earnings from prior years are listed as \$658,492, for a total of \$867,688. It is alleged that shippers are demanding regular service to points outside of applicant's certificated area, and that applicant may lose considerable business if this application is denied.

Applicant will provide service in intrastate, interstate, and foreign commerce in the expanded area. Notice of this application was published in the Federal Register of February 13, 1974.

Findings

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
2. The protests filed have been withdrawn and protestants have become interested parties.
3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by this decision.
4. A public hearing is not necessary.
5. All of applicant's operating authority should be combined in a single certificate.
6. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order.

Nielsen Freight Lines, Inc. 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. A certificate of public convenience and necessity is granted to Nielsen Freight Lines, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or file tariffs, in triplicate, in the Commission's office.
- (c) 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 establishment of the authorized service.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series.
- (e) Applicant 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.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 81433, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 8th day of OCTOBER, 1974.

Vernon L. Sturgeon
President
William J. Sturgeon
William J. Sturgeon
William J. Sturgeon
William J. Sturgeon
Commissioners

Nielsen Freight Lines, 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:

- I. General commodities, subject to the exceptions specifically noted:
 - A. Between all points and places inclusive, on and within 10 miles laterally of the following routes (subject to commodity restrictions 1 through 9 and 15):
 1. U.S. Highway 199 between its junction with U.S. Highway 101 and the California-Oregon State Line.
 2. U.S. Highway 101 between the California-Oregon State Line and Crescent City.
 3. State Highway 116 between Forestville and Graton.
 4. Unnumbered highway (Deer Park-Howell Mountain Road) between its junction with State Highway 29/128, northwest of St. Helena, and Angwin.
 5. State Highway 128 between Geyserville and Calistoga.
 6. State Highways 175 and 29 between Hopland and Middletown, via Kelseyville and Cobb.
 7. State Highway 29 between Upper Lake and Calistoga.
 8. State Highway 20 between its junction with U.S. Highway 101 at Calpella, and its junction with State Highway 53 north of Clearlake Highlands.

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9. State Highway 53 between its junction with State Highway 20 and Lower Lake.
- B. Between points and places in the San Francisco-East Bay Cartage Zone, as described in Note A, via any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.
- C. Between points and places located on or within three miles of the following routes:
 1. Between Novato and Willits via U.S. Highway 101, serving the off-route points of West Windsor and Talmadge.
 2. Between Ignacio Junction and Santa Rosa via State Highways 37, 121 and 12.
 3. Between Schellville and the Sonoma-Napa County Line via State Highways 12/121.
 4. Between Schellville and Kenwood via unnumbered county highway through El Verano and Glen Ellen.
 5. Between Petaluma and Sonoma via State Highway 116, unnumbered county road and State Highway 12.
 6. Between Sonoma and State Highway 12/121 via unnumbered county highways through Vineburg.
 7. Between U.S. Highway 101 and Vallejo via State Highway 37.
- D. Between points and places in the San Francisco-East Bay Cartage Zone, on the one hand, and points and places described in paragraph C hereof, on the other hand, via the following routes:
 1. U.S. Highway 101 between the San Francisco-East Bay Cartage Zone, and Novato.

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2. Between Richmond and San Rafael via the Richmond-San Rafael Bridge.
 3. Between Richmond and the junction of State Highway 37 with Interstate Highway 80 via Interstate Highway 80, or between Richmond and the junction of State Highway 29 with Interstate Highway 80 via Interstate Highway 80, thence via State Highway 29 to its junction with State Highway 37, thence via State Highway 37 to its junction with State Highway 121 at Sears Point.
 4. Between State Highway 29 and Interstate Highway 80 via State Highway 37.
 5. Via all routes described in paragraphs B and C hereof.
- E. Between all points on the following routes:
1. 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, San Quentin, McNears Beach, China Camp, Santa Venetia, Hamilton Field and points intermediate thereto.
 2. State Highways 12 and 121 between Schellville and Napa, inclusive.
 3. State Highways 37 and 29 between Sears Point and Napa, including Napa State Hospital.
 4. Interstate Highway 80 and State Highway 29 between Richmond and Vallejo, inclusive.
- F. Between points and places in Napa and Sonoma counties as follows:
1. All points on State Highway 12 between Sebastopol and Santa Rosa.
 2. All points on State Highway 116 between Graton and Cotati via Cunningham.

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3. All points on State Highway 29 between Napa and Calistoga.
 4. All points on unnumbered highways between Calistoga and Santa Rosa.
 5. From Petaluma to Two Rock via unnumbered highways.
- G. Between San Mateo and San Jose and intermediate points on U.S. Highway 101 and State Highway 82; between Hayward and San Jose and intermediate points on State Highways 17 and 238 (Mission Boulevard); and between all points laterally within 5 miles of said highways, via said highways and all connecting routes.

The authority described in paragraphs B, C, D, E, F and G is subject to commodity restrictions 1 through 9.

- H. Between all points and places on and within five miles laterally of the following routes (subject to commodity restrictions 1 through 3 and 5 through 13):
1. U.S. Highway 101 between Scotia and Trinidad, inclusive.
 2. State Highway 299 between the junction of said highway with U.S. Highway 101 and Burnt Ranch, inclusive.
 3. State Highway 96 between Willow Creek and Hoopa, inclusive.
 4. Rohnerville Road between Fortuna and Hydesville, inclusive, via Rohnerville.
 5. State Highway 36 between Hydesville and Carlotta, inclusive.

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- I. Between all points and places located on and within ten miles laterally of U.S. Highway 101 between Crescent City and Laytonville, inclusive, and between said points and places on the one hand and the San Francisco Territory, as described in Note B, on the other hand, subject to the following:
 1. 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.
 2. Nielsen Freight Lines 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.
 3. Commodity restrictions 1, 3, 5, 11 and 14.
- II. 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, Nielsen Freight Lines 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

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Vallejo; over Interstate Highway 80 between Vallejo and Oakland; over State Highways 17 and 238 (Mission Boulevard) between Oakland and San Jose; over Interstate Highway 80 between Oakland and San Francisco; and over State Highway 92 between Hayward and San Mateo (San Mateo-Hayward Toll Bridge).

III. Mechanical duplications and overlaps which occur in describing the operating authority granted herein shall not be construed as conferring more than one operating right to transport the same commodities between the same points.

Except that where specifically noted and pursuant to the authority herein granted, carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton burlap, gunny, fibreboard, or straw matting).
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.

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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.
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. Tractors and farm tractors.

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NOTE A

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 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

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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.

NOTE B

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 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.;

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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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