

Decision 83 04 039 APR 6 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 NAKANO WAREHOUSE & TRANSPORTATION)
 CORP., a California corporation,)
 for authority for the merger of)
 NAKANO EXPRESS SERVICE, INC., a)
 wholly owned subsidiary and)
 California corporation into its)
 parent, and to have the Common)
 Carrier Certificate, Cal T-118,465)
 reissued in the name of the parent,)
 NAKANO WAREHOUSE & TRANSPORTATION)
 CORP.)

Application 82-12-29
 (Filed December 10, 1982)

O P I N I O N

Nakano Warehouse & Transportation Corp. (NWT) and Nakano Express Service, Inc. (NES) seek Commission authorization for the merger of NES into NWT. NES is a wholly owned subsidiary of NWT. It is proposed that the common carrier certificate now held by NES should be transferred to its parent and successor, NWT. NES also held a highway contract carrier permit (T-118,465) which has been transferred to NWT.

NES's certificate was purchased from Basin Truck Line, Inc. (Decision 88136 in Application 57373 (1977)); it authorizes carriage of general commodities with the usual exceptions between all points in the Los Angeles Basin Territory. It is also the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC-121197.

NWT and NES accomplished all of the normal steps to execute the merger in 1980. It is alleged that their officers did not realize that Commission approval of such a merger was required, and that this mistake was made in good faith. It is further alleged that NES has always been wholly owned by NWT, and the change in control has not affected either the competitive position or the operations of NWT. That corporation's balance sheet dated December 31, 1981 filed

as Appendix D to the application shows a net worth of \$3,025,225. Its statement of operations for that year shows a net income after taxes of \$106,556 with total revenue of \$1,605,590.

Notice of the filing of this application appeared on the Commission's Daily Transportation Calendar on December 16, 1982. No protests have been received.

Authorization to complete this merger is not a finding of the value of the rights and properties to be transferred.

Findings of Fact

1. The merger of NES into NWT was accomplished without Commission authorization as a result of a good faith mistake of law.
2. The merger will have no effect on the public interest or on other carriers. The merger and transfer are not adverse to the public interest.
3. It can be seen with certainty that there is no possibility that the merger and transfer of certificate may have a significant effect on the environment.
4. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.
5. A public hearing is not necessary.

Conclusion of Law

The proposed merger and transfer of certificate should be authorized.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Nakano Express Service, Inc. (NES) may sell and transfer the certificate of public convenience and necessity specified in the decision and may merge itself into Nakano Warehouse & Transportation Corp. (NWT). This authority shall expire if not exercised by July 1, 1983, or within such additional time as the Commission may authorize.

2. NWT shall:

- a. File with the Transportation Division written acceptance of the certificate.
- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before five days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with the provisions of the Interstate and Foreign Highway Carriers Registration Act, Public Utilities (PU) Code §§ 3901 et seq.

3. On the effective date of the tariffs a certificate of public convenience and necessity is granted to NWT, a California corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A. The new certificate issued to the purchaser will not broaden or change the interstate or foreign Commerce rights heretofore held by the seller.

4. The certificate of public convenience and necessity granted by Decision 88136 is revoked on the effective date of the tariffs.

This order becomes effective 30 days from today.

Dated APR 6 1985, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

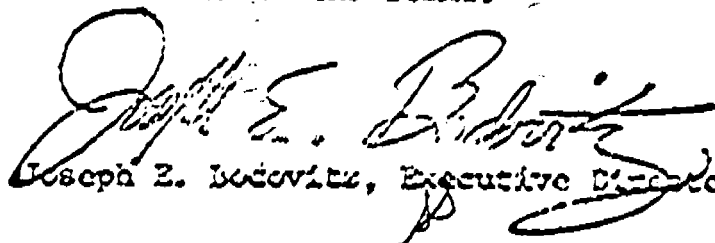
VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph Z. Bodovitz, Executive Director

Nakano Warehouse & Transportation Corp., 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 Public Utilities Code Section 213 for the transportation of general commodities as follows:

Between all points and places in Los Angeles Basin Territory as described in Note A.

Except that under the authority 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, briefcases, 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.

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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 semiplastic 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-type trucks or trailers or in hopper-type trucks or trailers.
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.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

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NOTE A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; northeasterly along the county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along the corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and Interstate Highway 15 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; westerly to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along the corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along the right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to Interstate Highway 15; southerly along Interstate Highway 15

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(NOTE A - Continued)

to the Riverside County-San Diego County boundary line; westerly along the boundary line to the Orange County-San Diego County boundary line; southerly along the boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX A)

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