

Decision 83 09 090 SEP 30 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Phil Nail Trucking Company, an inter-)
 state common carrier, MC-163421, to)
 purchase a certificate of public)
 convenience and necessity pursuant to)
 Section 1063 of the Public Utilities)
 Code. Said certificate to be trans-)
 ferred from Albertson Transport, Inc.)
 under Decision 92217, Application)
 51987, to Phil Nail Trucking Company,)
 6108 Briargate Lane, Glendora, CA)
 91740.)

Application 83-05-29
(Filed May 16, 1983)

O P I N I O N

Albertson Transport, Inc. (Albertson) received authority as a highway common carrier of general commodities, with the usual exceptions, in Decision 92217 dated September 3, 1980 in Application 59187, authorizing transportation services within and between the following points in California:

- A. Between all points and places in the Los Angeles Basin Territory.
- B. Between all points on and within 25 statute miles of the following described routes:
 1. Interstate Highway 5 between Sacramento and San Ysidro.
 2. State Highway 99 between Sacramento and Wheeler Ridge.
 3. U. S. Highway 101 between Santa Rosa and Los Angeles.
 4. Interstate Highway 80 between San Francisco and Sacramento.
 5. Interstate Highway 580 between Oakland and its junction with Interstate Highway 5 near Vernalis.

Albertson has filed for bankruptcy due to severe losses suffered over the past two years and the further loss of two of its principal customers. It cannot compete with other carriers who have obtained authority to reduce rates after filing cost justification. Albertson's operating authority is currently in suspension and it has never participated in through or joint rates with any carrier.

Albertson is selling the operating authority for \$4,200. An advance payment of \$1,000 will be made and a final payment of \$3,200, as soon as the authority is transferred.

Phil Nail, an individual, doing business as Phil Nail Trucking Company, is an interstate common carrier operating out of a terminal in Glendora, California. He transports general commodities for 75 shippers within California to points outside the State. Many of these shippers have promised to tender Nail large volumes of freight to be transported intrastate. Nail will publish his rates in the Westcoast Motor Tariff Bureau, Inc. and will compete with the other carriers in this publication. Nail owns a 1964 tractor and two 40-foot flatbed trailers. He leases nine tractors, nine trailers, and four vans.

Nail's net worth was \$22,817.26 on May 31, 1982. The profit and loss statement for the period from January 1 through May 31, 1982 shows a gross profit of \$38,074.22 and a net of \$9,627.77. The balance sheet lists total current assets of \$22,428.65 and total current liabilities of \$14,388.86.

Copies of the application were mailed to the California Trucking Association, Westcoast Motor Tariff Bureau, Inc., and the California Manufacturers Association. Notice of the filing of the application was published on May 18, 1983 in the Commission's Daily Transportation Calendar. There have been no protests or requests for a public hearing.

Findings of Fact

1. The proposed transfer of the certificate will not be adverse to the public interest.
2. Nail has the necessary experience and financial resources to conduct the proposed operation.
3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.
4. A public hearing is not necessary.

Conclusion of Law

The proposed transfer is in the public interest and 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. Albertson Transport, Inc. may sell and transfer the operative rights specified in the application to Phil Nail, an individual, doing business as Phil Nail Trucking Company. This authority shall expire if not exercised by December 1, 1983, or within such additional time as the Commission may authorize.
2. Purchaser shall:
 - a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
 - b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.

- c. Comply with General Orders Series 80, 100, 104, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 102 and 130. If applicant elects to engage subhaulers, applicant shall have the required bond on file, and applicant shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Phil Nail, an individual, doing business as Phil Nail Trucking Company, authorizing him to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A. ✓

4. The certificate of public convenience and necessity granted by Decision 92217 is revoked on the effective date of the tariffs.

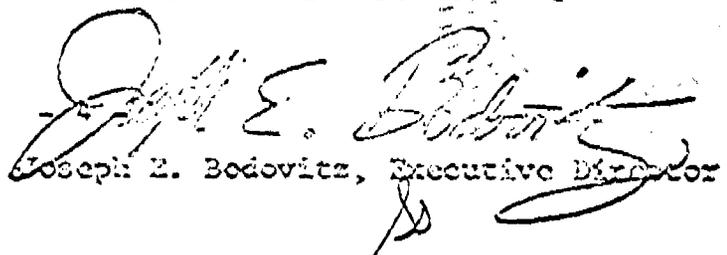
This order becomes effective 30 days from today.

Dated September 30, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate.

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


Joseph E. Bedovitz, Executive Director

PHIL NAIL
(an individual)
doing business as
PHIL NAIL TRUCKING COMPANY

Phil Nail, 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:

- A. Between all points and places within the Los Angeles Basin Territory as described in Note A.
- B. Between all points and within 25 statute miles of the following described routes.
 1. Interstate Highway 5 between Sacramento and San Ysidro.
 2. State Highway 99 between Sacramento and Wheeler Ridge.
 3. U.S. Highway 101 between Santa Rosa and Los Angeles.
 4. Interstate Highway 80 between San Francisco and Sacramento.
 5. Interstate Highway 580 between Oakland and its junction with Interstate Highway 5 near Vernalis.

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.

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2. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
11. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.

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12. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.
13. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

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

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

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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 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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Findings of Fact

1. The proposed transfer of the certificate will not be adverse to the public interest.
2. Nail has the necessary experience and financial resources to conduct the proposed operation.
3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.
4. A public hearing is not necessary.

Conclusion of Law

The proposed transfer is in the public interest and 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. Albertson Transport, Inc. may sell and transfer the operative rights specified in the application to Phil Nail, an individual, doing business as Phil Nail Trucking Company. This authority shall expire if not exercised by ~~October~~^{October 1}, 1983, or within such additional time as the Commission may authorize.
2. Purchaser shall:
 - a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
 - b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.

SS

- c. Comply with General Orders Series 80, 100, 104, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 102 and 130. If applicant elects to engage subhaulers, applicant shall have the required bond on file, and applicant shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Phil Nail, an individual, doing business as Phil Nail Trucking Company, authorizing him to operate as a highway common carrier, as defined in PU Code § 213, between ~~the points and over the routes~~ listed in Appendix A.

4. The certificate of public convenience and necessity granted by Decision 92217 is revoked on the effective date of the tariffs. This order becomes effective 30 days from today.

Dated SEP 30 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate