

Decision No. 86578**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of:  
 NATION WIDE ENTERPRISES, INC., a  
 California Corporation doing business  
 as CAL-PACIFIC COMPANY for an in lieu  
 Certificate of Public Convenience and  
 Necessity to operate as a Highway  
 Common Carrier intrastate commerce,  
 and for a co-extensive Certificate of  
 Registration for interstate and foreign  
 commerce, pursuant to the provisions of  
 Sections 1063 and 1064 of the Public  
 Utilities Code of the State of California.

) Application No. 55960  
 ) (Filed September 24, 1975;  
 ) amended January 21,  
 ) March 11, and June 17, 1976)

O P I N I O NStatement of Facts

By Decision No. 84584 dated June 24, 1975 in Application No. 55663, Nation Wide Enterprises, Inc., a California corporation, doing business as Cal-Pacific Company (applicant), was granted highway common carrier authority for the transportation of general commodities between points in the San Francisco - East Bay Cartage Zone pursuant to Section 213 of the Public Utilities Code.

The certificate of public convenience and necessity granted above was registered with the Interstate Commerce Commission, and a Certificate of Registration authorizing co-extensive operations by applicant in interstate and foreign commerce was granted in Docket Number MC-96729 (Sub - No.1).

In addition, pursuant to highway contract carrier and dump truck carrier permits issued by this Commission under File Number T-79,403, applicant has also operated as a permitted carrier so that applicant currently serves a large number of shippers on a nearly regular basis throughout the essential whole of the service territory which is the subject of this application.

Applicant's business has been increased to the point where in order to avoid an assertion of inappropriate encroachment upon highway common carrier status beyond that held, applicant is in the position of being impelled to either consider a reduction of its service level or request extended certificated authority. Accordingly, by this application applicant seeks an in lieu certificate of public convenience and necessity as a highway common carrier, authorizing transportation of "general commodities" in certain extended territories.<sup>1/</sup>

The application was served upon 126 competitive highway common carriers. Initially seven protests to the requested extension of authority were filed.<sup>2/</sup> However, by three successive restrictive amendments the interests of the protestants were accommodated and the protestants one by one withdrew. In addition to the intrastate commerce certificated service authority sought, a corresponding authorization to perform operations in interstate and foreign commerce pursuant to the provisions of Section 206(a)(6) of the Interstate Commerce Act (49 USC Section 306(a)(6)) is being sought.

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<sup>1/</sup> The service proposed will be performed on a daily basis on weekdays, with on-call service available on Saturdays, Sundays, and holidays.

<sup>2/</sup> The protestants of record are:

Delta Lines, Inc.  
Ted Peters Trucking Co.  
Associated Freight Lines  
Frank's Trucking

Bayview Trucking, Inc.  
Peters Truck Lines  
Hatfield Trucking Service, Inc.

Discussion

Applicant's present majority shareholders and management team joined applicant in July 1974. Since that time permitted operations combined with certificated operations covering points in the San Francisco - East Bay Cartage Zone, and the additional business and goodwill acquired from Victor J. Johnson dba Johnson Transfer Co. (see Decision No. 84584) have increased the scope and regularity of service to the point where applicant currently services many shippers on a nearly regular basis in the requested extended service territory. The service applicant presently provides is self-evidently responsive to the needs of the shipping public. Accordingly, it would appear that applicant's assertions are correct that the public convenience and necessity require the proposed service. Applicant has the financial ability to render the proposed service <sup>3/</sup> and the necessary equipment to render the services contemplated. <sup>4/</sup> Upon granting of the requested in lieu certificate applicant will establish rates substantially in conformity with rates and charges contemporaneously published by competing common carriers. The granting of the application will allow more effective motor transportation for the public with no new adverse environmental effects. In that the initial protests have been all withdrawn, there is no necessity for a public hearing.

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<sup>3/</sup> A profit and loss statement for the first 8 months of 1975 showed freight revenues of \$196,868.93 and expenses of \$180,137.14, with \$16,731.79 left as net profit (before provision for income taxes).

<sup>4/</sup> Applicant provided an equipment list showing three tractors and a van with appropriate semi-trailer, flatbed, and dolly equipment.

Findings

1. Applicant holds highway common carrier and permitted authority from this Commission.
2. Since acquisition of these authorities applicant has expanded his service to meet the requirements of his customers.
3. Applicant has financial resources and trucking equipment sufficient to conduct the proposed operations.
4. Notice that this application was filed and that the applicant will seek a certificate of registration from the Interstate Commerce Commission was published in the Federal Register on October 16, 1975.
5. Public convenience and necessity require that applicant be authorized to engage in extended operations in intrastate commerce as proposed in the amended application and also require that applicant be authorized to engage in extended operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
7. A public hearing is not necessary.

Conclusions

The Commission concludes that the amended application for an in lieu certificate should be granted as set forth in the ensuing order. The territorial description and routes of the authority granted reflect the names of redesignated highways and roads and do not in any way exceed the geographical scope of the proposed operations as published in the Federal Register.

Applicant 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. An in lieu certificate of public convenience and necessity is granted to Nation Wide Enterprises, Inc., a California corporation, dba Cal-Pacific Company, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

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.

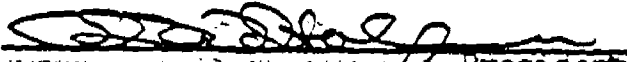
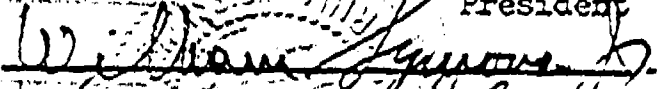

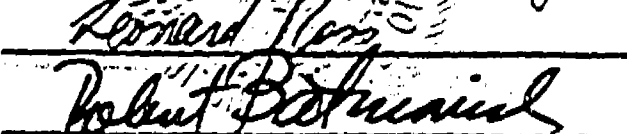
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission on or before April 30 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. 84584, 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 2nd day of NOVEMBER, 1976.

  
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President  
  
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\_\_\_\_\_  
Leonard Von  
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Commissioners

Nation Wide Enterprises, Inc., a California corporation, doing business as Cal-Pacific 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 general commodities between all points and places in San Francisco Territory as described in Note A hereof and all points within fifteen (15) statute miles thereof; except no service is authorized to or from points in Napa County.

Except that 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,

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- 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 high-way 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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
  8. Logs.
  9. Articles of extraordinary value.
  10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
  11. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.
  12. Shipments having a prior or subsequent movement by air.
  13. Commodities requiring temperature-controlled equipment and commodities transported in cargo containers beyond the limits of San Francisco-East Bay Cartage Zone as described in Note B hereof.

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

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## NOTE A

## 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.; 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

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shoreline of the Pacific Ocean to point of beginning.

## NOTE B

## 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

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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.

END OF APPENDIX A

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