

ORIGINAL

Decision No. ~~87388~~ May 24, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JIM B. NIELSEN to)
transfer a public utility ware-)
houseman certificate and assets)
to ROBERT L. GOETHE (general)
partner) and JOHN M. GOETHE)
(limited partner) dba GOETHE &)
NIELSEN WAREHOUSES, Watsonville,)
Santa Cruz County.)

Application No. 57151
(Filed March 17, 1977)

OPINION AND ORDER

Jim B. Nielsen possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space at Watsonville. By this application, he seeks authority to transfer, and Robert L. Goethe, general partner, and John M. Goethe, limited partner, doing business as Goethe and Nielsen Warehouses and Nielsen and Goethe Warehouses, to acquire the aforementioned operative right.

According to the application, applicant purchasers have the financial resources, experience and personnel to conduct the warehouse services involved. The cash consideration is \$500,000 for the purchase of the operative right and certain assets used in the operation of the facility.

The application was listed on the Commission's Daily Calendar of March 18, 1977. No objection to the granting of the application has been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the operative right presently held by Jim B. Nielsen and the issuance of a certificate in appendix form to Robert L. Goethe and John M. Goethe. The

Commission concludes that the effective date of this order should be the date hereof as there is an immediate need to consummate the transfer.

The authorization granted shall not be construed as a finding of the value of the right and property authorized to be transferred.

Robert L. Goethe and John M. Goethe are 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.

IT IS ORDERED that:

1. On or before October 1, 1977, Jim B. Melsen may sell and transfer and Robert L. Goethe and John M. Goethe may purchase and acquire, the operative right and property referred to in the application.
2. Within thirty days after the transfer the purchasers 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. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse carrier operations transferred to show that they have adopted or established, as their own, such rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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 61-Series. Failure to comply with the provisions of General Order 61-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 purchasers 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 Robert L. Goethe and John H. Goethe, authorizing them to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space set forth in Appendix A, attached hereto and made a part hereof.

6. The prescriptive operative right as determined by the Commission's order dated August 9, 1960, in Case 6783 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchasers shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The Executive Director is directed to cause service of certified copies of the order to be made upon Jim B. Nielsen, Robert L. Goethe and John H. Goethe, or to mail certified copies thereof to them at their last known addresses as shown in the Commission's records and to mail a copy of this order to Jack L. Dawson, Agent.

The effective date of this order is the date hereof.

Dated at Los Angeles, California, this 24th day of MAY, 1977.

*I concur in the
conclusion but not to
the effective date the
date hereof.*

William Lyons Jr.
Commissioner

President

Vernon L. Sturgeon
Richard D. Thorne

Commissioners

Commissioner Robert Batinovich, being
necessarily absent, did not participate
in the disposition of this proceeding.

Robert L. Goethe and John M. Goethe, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Watsonville	15,000

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 87388, Application 57151.