

Decision No. 91213 JAN 8 - 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ROBERT L. GOETHE)
(general partner) and JOHN M.)
GOETHE (limited partner) dba)
GOETHE & NIELSEN WAREHOUSES,)
to transfer a Public Utility)
Warehouseman Certificate and)
assets to HARVEY P. THOMAS)
dba HARVEY P. THOMAS WAREHOUSES,)
Watsonville, Santa Cruz County,)
California.)

Application No. 59274
(Filed November 15, 1979)

OPINION AND ORDER

Robert L. Goethe, general partner, and John M. Goethe, limited partner, doing business as Goethe & Nielsen Warehouses possess a certificate of public convenience and necessity as a public utility warehouseman for the operation of storage or warehouse floor space at Watsonville. By this application, they seek authority to transfer and Harvey P. Thomas seeks authority to acquire the aforementioned operative right.

According to the application, applicant purchaser has the financial resources, experience and personnel to conduct the warehouse services involved. The cash consideration is \$590,760 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 November 19, 1979. 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 Robert L. Goethe and John M. Goethe and the issuance of a certificate in appendix form to Harvey P. Thomas.

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

Harvey P. Thomas 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.

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

IT IS ORDERED that:

1. On or before April 1, 1980, Robert L. Goethe and John M. Goethe, may sell and transfer and Harvey P. Thomas may purchase and acquire the operating right and property more specifically referred to in the application.

2. Within thirty days after the transfer, the purchaser 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. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse carrier operations transferred to show that he has adopted or established, as his 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 purchaser 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 Harvey P. Thomas authorizing him 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 certificate of public convenience and necessity granted by Decision 87388 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

3. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

The effective date of this order is the date hereof.

Dated JAN 8 - 1980, at San Francisco, California.

John E. Guyon
President

William L. Sottergen

Robert J. Hoyle

Robert T. Smith

Samuel M. Smith
Commissioners

Harvey P. Thomas, by the certificate of public convenience and necessity granted in the decision noted in the margin, is 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	26,900

(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 91213, Application 59274.

Revenue and expense data submitted by applicant indicate that the transportation involved may reasonably be expected to be profitable under the proposed rates.

The application was listed on the Commission's Daily Calendar of November 27, 1979. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted as set forth in the ensuing order and the effective date of this order should be the date hereof because there is an immediate need for this rate relief.

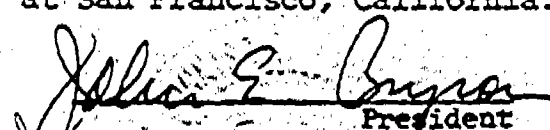
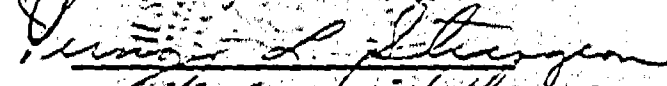


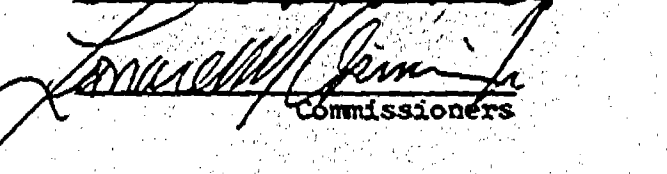
IT IS ORDERED that:

1. Blincoe Trucking Company is authorized to perform the transportation shown in Appendix A attached hereto and by this reference made a part hereof at not less than the rates set forth therein.

2. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

The effective date of this order is the date hereof.

Dated JAN 8 - 1980, at San Francisco, California.


President




Commissioners

APPENDIX A

Blincoe Trucking Company, a corporation, is authorized to transport Sugar, in packages on pallets, and Sugar, granulated, in bulk, for Holly Sugar Corporation from the facilities of Holly Sugar Corporation located at or near Carlton, Hamilton City, Santa Ana and Tracy to points in California, at the following rates, subject to the following conditions:

CONDITIONS:

1. Truckload shipments of Sugar, in packages, on pallets weighing 40,000 pounds or more when loaded into one unit of carrier's equipment by shipper and unloaded from one unit of carrier's equipment by consignee by means of power equipment shall be subject to 84 percent of the Class 35.2 rating named in Item 390 of Minimum Rate Tariff 2 at the class rates named in Section 2 therein.
2. Truckload shipments of Sugar, granulated, in bulk, when moving in one unit of carrier owned equipment and subject to truckload minimum weights of 50,000 or 52,000 pounds, respectively, shall be subject to 84 percent of the rates provided for in Items 745 and 746 of Minimum Rate Tariff 2. Exception: Note 4 of Item 755 of Minimum Rate Tariff 2 will not apply. When pumping service is performed by the carrier's equipment, a charge of four (4) cents per 100 pounds will be made.
3. The base rate per 100 pounds and charges arrived at shall then be subject to all applicable surcharges provided for in Minimum Rate Tariff 2.
4. Applicant has not indicated that subhaulers will be engaged nor have any costs of subhaulers been submitted. Therefore, if subhaulers are employed, they shall be paid no less than the rates authorized herein without any deduction for use of applicant's trailing equipment.
5. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)