

Decision No. 91827 MAY 20 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of NICKELL'S VAN & STORAGE, INC.,)
a corporation, to transfer to, and)
of ERICKSON VAN & STORAGE, INC.,)
a corporation, to acquire a certi-)
ficate of public convenience and)
necessity to transact business)
as a public warehouseman.)

Application No. 59511
(Filed March 11, 1980)

OPINION AND ORDER

Nickell's Van & Storage, Inc. (Nickell's), a California corporation, possesses a certificate of public convenience and necessity as a public utility warehouseman for the operation of storage or warehouse floor space at San Jose. By this application, it seeks authority to transfer and Erickson Van & Storage, Inc. (Erickson), a California corporation, 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 \$2,500 for the purchase of the warehouse operative right.

The application was listed on the Commission's Daily Calendar of March 13, 1980. 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 warehouse operative right presently held by Nickell's and the issuance of a certificate in appendix form to Erickson.

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

Erickson 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 August 1, 1980, Nickell's Van & Storage, Inc., may sell and transfer and Erickson Van & Storage, Inc. may purchase and acquire the warehouse operating right 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 operations transferred to show that it has adopted or established, as its own, such rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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 Erickson Van & Storage, Inc. authorizing it 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 60255 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser 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 March 31 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.

8. Applicant shall, at the direction of the owner of any property in storage at the closing warehouse facility of Nickell's in San Jose transport such property to any available public utility warehouse in the vicinity of the Nickell's facility in San Jose at the expense of Nickell's Van & Storage, Inc. and at no expense or risk to the owner of the property transported.

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The Executive Director is directed to cause service of certified copies of this decision to be made upon Nickell's Van & Storage, Inc. and Erickson Van & Storage, Inc., or to mail certified copies thereof to them at their last known addresses as shown in the Commission's records.

The effective date of this order shall be thirty days after the date hereof.

Dated MAY 20 1990, at San Francisco, California.

John E. Guyon
President
James L. Sturgeon
Richard W. Givelle
Clare J. DeLoach
Thomas W. Carnis
Commissioners

Erickson Van & Storage, 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>Numer of Square Feet of Floor Space</u> |
|-----------------|--|
| San Jose | 13,000 |

(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.

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