

Decision No. 36417

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
Western Warehouse and Transfer }
Company, a corporation, for authority } Application No. 25648
to sell and convey prescriptive right. }

BY THE COMMISSION:

ORIGINAL

OPINION

By this application, as amended, Western Warehouse and Transfer Company, a corporation, seeks authority to sell to J. S. Craig, an individual, a prescriptive operative right under which the corporation allegedly is authorized to store property in Los Angeles as a public utility warehouseman. Craig, an experienced warehouseman, proposes to continue the operations heretofore conducted by the corporation.

The consideration involved is \$1. This sum is proposed to be paid for the operative right. Authority to transfer physical assets is not here sought. It should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose. By the authorization, moreover, the Commission is not determining either the existence, character or extent of the operative right involved, but is merely permitting J. S. Craig to acquire whatever operative right is held by Western Warehouse and Transfer Company.

J. S. Craig is placed upon 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, they extend to the holder a full or partial monopoly of

a class of business in a designated community. This monopoly feature may be changed or destroyed at any time by the State which is not in any respect limited to the number of rights which may be given.

The transfer as proposed herein appears to be in the public interest and the application will therefore be granted. A public hearing is not necessary.

ORDER

IT IS ORDERED:

(1) That Western Warehouse and Transfer Company, a corporation, is authorized to sell and transfer to J. S. Craig, an individual, and J. S. Craig is authorized to acquire, whatever operative right Western Warehouse and Transfer Company may now possess to store property as a public utility warehouseman in Los Angeles.

(2) That the authority herein granted is subject to the condition that J. S. Craig, his successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operative right, or claim as the cost thereof an amount in excess of that paid for said right.

(3) That Western Warehouse and Transfer Company and J. S. Craig shall comply with the rules of the Commission's General Order No. 61 by filing, in triplicate, and concurrently making effective tariffs satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

The effective date of this order shall be the date
hereof.

Dated at San Francisco, California, this 8th day of
June, 1943.

Frank D. Havenner

Justin D. Craven
Richard D. Jackson

Commissioners