

Decision No. 38591

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Central Warehouse & Storage Co., a )  
Corporation, for authority to sus- ) Application No. 26714  
pend public warehouse operations for )  
one year. )

In the Matter of the Application of )  
J. S. Craig, dba Western Warehouse )  
and Transfer Company, for an order )  
authorizing him to suspend for one ) Application No. 26715  
year operations as a public warehouse )  
at 1000 Santa Fe Avenue, Los Angeles, )  
California. )

In the Matter of the Application of )  
J. S. Craig to sell and Freight )  
Transport Company, a corporation, to ) Application No. 27098  
buy the public warehouse operations )  
of the Seller located in Los Angeles )  
County, California. )

In the Matter of the Investigation by )  
the Commission, upon its own motion, )  
into the operations and practices of )  
Central Warehouse & Storage Company, ) Case No. 4783  
a corporation, and J. S. Craig, )  
doing business as Western Warehouse )  
and Transfer Company. )

ROWELL, COMMISSIONER:

Appearances

Leo E. Sievert, for Central Warehouse & Storage  
Company and for J. S. Craig.  
Wyman C. Knapp, for Freight Transport Company.  
Arlo D. Poe for Los Angeles Warehousemen's  
Association.

O P I N I O N

By Applications Nos. 26714 and 26715, Central Warehouse &  
Storage Co., a corporation, and J. S. Craig, an individual doing  
business as Western Warehouse and Transfer Company, sought authority  
to suspend operations as public utility warehousemen in Los Angeles.  
Shortly after the applications were filed, the Commission instituted

an investigation into the operations and practices of Central and Craig for the purposes, among others, of determining whether or not they were discharging their duties as public utility warehousemen; whether or not they had discontinued or suspended service without authority; and, in the event it was disclosed that there had been such discontinuance or suspension, whether or not their operative rights should be revoked. This proceeding has been designated as Case No. 4783. In Application No. 27098, Craig has requested authority to sell the Western right to Freight Transport Company.

Public hearing was held at Los Angeles on November 28, 1945.

The pertinent facts, developed by a member of the Commission's staff, and corroborated by J. S. Craig, Central's president and owner of the Western right, are not in dispute. It appears that Central's operations were conducted at 1000 Santa Fe Avenue in a building occupied under a month-to-month tenancy arrangement; that this building was sold under terms requiring that Central vacate it by October 5, 1945; that because no other suitable warehouse structure was then available to it Central decided to suspend operations; that it notified its patrons accordingly; and that it filed Application No. 26714 seeking authority to suspend service. In the meantime, a lease on a building at 903 North Main Street, containing approximately the same space as the Santa Fe Avenue location, was secured and Central's storage operations were transferred to the new location. It then asked that its application to suspend service be dismissed. Under the circumstances, it appears that the investigation proceeding, in so far as it relates to Central, should be discontinued and the application dismissed.

With respect to Craig's Western right, the record shows that he has not operated under it. Authority to acquire this right was contained in Decision No. 36417 of June 8, 1943 (unreported), in Application No. 25648. On August 24, 1943, however, the proceeding

was reopened for further consideration. An order (45 C.R.C. 422) confirming the authority initially granted was not issued until August 29, 1944. Craig contends that his failure to inaugurate service has been due to circumstances beyond his control. He testified that he would have been able to secure suitable facilities in 1943; that he deemed it unwise to make any definite commitments with respect to warehouse property until his operative right was confirmed; and that, when this was done in 1944, he began a diligent search for suitable facilities but found that none were available because of the abnormal demands for warehouse property occasioned by the war. Convinced that he would be unable to find space for some time, Craig also testified, he filed the application seeking authority to suspend service.

Under these circumstances, this does not appear to be a case in which operative rights should be revoked for failure to provide service. The investigation proceeding should be discontinued.

There remains for consideration Craig's application to sell the Western right to Freight Transport Company for a cash consideration of \$500. Transport is engaged in limited storage operations in connection with its for-hire carrier activities. (Its operations are described in Decision No. 38185 of August 28, 1945, in Application No. 26039.) If granted authority to acquire Craig's right, Transport intends to provide public storage service to the extent permitted thereunder. Definite plans have been made for the necessary enlargement of its facilities. The sale of the right should be authorized. In this event, Craig has asked that his application to suspend service be dismissed. This should be done.

Los Angeles Warehousemen's Association did not oppose the granting of the authority sought but urged that the decision in these proceedings outline the circumstances under which operative rights might be revoked for unauthorized discontinuance or suspension of service so that its members and other interested parties would be fully cognizant of the responsibilities of public warehousemen to maintain service. These proceedings, which involve quite abnormal circumstances and conditions, do not afford a basis for such broad determinations as those requested by the Association.

Upon consideration of all the facts of record, I am of the opinion and find that Applications Nos. 26714 and 26715 should be dismissed; that Case No. 4783 should be discontinued; and that Application No. 27098 should be granted.

Freight Transport Company is hereby 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. 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.

In accounting for the purchase price to be paid for this operative right, Freight Transport Company should be required to charge the cost to Account No. 1890 - Other Deferred Debits, in the Uniform System of Accounts prescribed for Class I Common and Contract Motor Carriers of Property by the Commission and should write this sum off as a charge to Account No. 7500, - Other Deductions.

The following form of order is recommended:

## O R D E R

These matters having been duly heard and submitted and based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Applications Nos. 26714 and 26715 be and they are hereby dismissed; that Case No. 4783 be and it is hereby discontinued; that Application No. 27098 be and it is hereby granted; and that Freight Transport Company shall, in accounting for the purchase price of the operative right it is authorized to acquire, follow the requirements set forth in the opinion preceding this order.

The authority herein granted in Application No. 27098 shall be void unless exercised within sixty (60) days from the effective date of this order.

This order shall become effective twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered to be filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4<sup>th</sup> day of January, 1946.

*David Ordway*  
*Justus J. Coe*  
*Francis W. Clark*  
*Irving St. Sweeney*  
*Harvest H. Hule*  
 Commissioners