

ORIGINAL

Decision No. 39457

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ADOLPH FOX to Sell and CHESTER)
 CASSELLA, GEORGE CASSELLA and ELMO)
 CRESTA to purchase that certain) (Application No. 27865
 warehouse business known as)
 Distributors Warehouse Co.)

OPINION AND ORDER

Adolph Fox, doing business as Distributors Warehouse Co., operates a coopering and public utility warehouse business in San Francisco. He proposes to sell this business, including warehouse operating rights, to Chester and George Cassella and Elmo Cresta for a cash consideration of \$21,000.¹

The verified application shows that Fox desires to retire from business and that the purchasers, all of whom have been employed by him for over ten years, intend to continue the operation with no change in rates or service to the public.

It appears that this is a matter in which a public hearing is not necessary and that the application should be granted. This action is not a determination of the existence, character or extent of operative rights. It merely permits the purchasers to acquire whatever operative right is held by the seller.

Chester Cassella, George Cassella and Elmo Cresta are 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

¹ Approximately \$5,000 of this amount represents physical assets and the balance good will and operative rights. The utility business appears to represent approximately one-fifth of the total.

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.

Good cause appearing,

IT IS HEREBY ORDERED that Adolph Fox, doing business as Distributors Warehouse Co., be and he is hereby authorized to sell the warehouse business, designated public utility warehouse equipment and whatever operative right Adolph Fox now possesses to conduct operations as a public utility warehouseman at San Francisco to Chester Cassella, George Cassella and Elmo Cresta, said sale to be in accordance with the terms of the agreement of sale attached to the application as Exhibit "A"; and that concurrently with the commencement of warehouse operations, Chester Cassella, George Cassella and Elmo Cresta shall file rates, rules and regulations identical with those now maintained by Adolph Fox, in conformity with regulations governing the construction and filing of warehouse tariffs set forth in the Commission's General Order No. 61, and on not less than one (1) day's notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that Chester Cassella, George Cassella and Elmo Cresta shall file their opening journal entries within sixty (60) days after purchase of the property involved.

This order shall become effective on the date hereof.

Dated at Los Angeles, California, this 1st day of
October, 1946.

Harold P. Hule

Justus Z. Craver
Francis Brown

A. V. Anderson
Commissioners