

Decision No. 41889

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Charles H. Kane, Charles P. Costa, and the Estate of James C. S. Graham, deceased, for authority to sell, and Charles H. Kane and Charles P. Costa for authority to acquire warehouse property.

**ORIGINAL**

Application No. 29519

OPINION AND ORDER

Charles H. Kane, James C. S. Graham, and Charles P. Costa, copartners, operated a for-hire drayage and public utility warehouse business in San Francisco. Recently, Graham died. By this application, Kane and Costa seek authority to acquire the operative right under which the warehouse business has been conducted. The Superior Court of the City and County of San Francisco has authorized the administratrix of Graham's estate to accept the sum of \$7,313.86 for the deceased's interest in the drayage and warehouse business and thereupon to assign that interest to the surviving partners. No change in warehouse rates or service is proposed.

It appears that this is a matter in which a public hearing is not necessary and that the authority here sought should be granted. This 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 sellers. The action taken herein shall not be construed to be a finding of the value of the property herein authorized to be transferred.

Charles H. Kane and Charles P. Costa 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 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.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Charles H. Kane, Charles P. Costa and the Estate of James C.S. Graham, deceased, be and they are hereby authorized to sell and transfer to Charles H. Kane and Charles P. Costa whatever operative right the former may now possess to conduct operations as a public utility warehouseman at San Francisco, in accordance with the terms of the agreement attached to the application; that, concurrently with the commencement of warehouse operations by Charles H. Kane and Charles P. Costa, applicants shall, on not less than five (5) days' notice to the Commission and the public, supplement or reissue tariffs on file with the Commission to show that Charles H. Kane, Charles P. Costa and James C. S. Graham have withdrawn or cancelled and that Charles H. Kane and Charles P. Costa have concurrently adopted or established as their own said rates, rules and regulations; and that the tariff filings made pursuant to this order shall in all other respects comply with the

the regulations governing the construction and filing of warehouse tariffs set forth in the Commission's General Order No. 61.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of July, 1948.

R. F. Dwyer  
Justin F. Cooney  
W. A. F. Sullivan  
Harold P. Hill  
Commissioners