

Decision No. 47636

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC COAST TERMINAL WAREHOUSE)
COMPANY for authority to suspend) Application No. 33276
temporarily its operations as a ware-)
houseman in the City of Los Angeles.)

In the Matter of the Investigation)
into the operating rights, operations) Case No. 5354
and practices of PACIFIC COAST)
TERMINAL WAREHOUSE COMPANY.)

Appearances

Eugh Gordon, for Pacific Coast Terminal Warehouse
Company, applicant and respondent.

O P I N I O N

These proceedings pertain to public warehousing operations of Pacific Coast Terminal Warehouse Company in the city of Los Angeles. By Application No. 33276 the company seeks authority to suspend its operations temporarily. Case No. 5354 is an investigation by the Commission on its own motion into the company's operating rights, operations and practices.

Public hearing of the matters was held on a consolidated record before Examiner Abernathy at Los Angeles on April 21, 1952. Evidence was submitted by a member of the Commission's staff and by the general manager of the warehouse company.

The pertinent facts of record are as follows:

Pacific Coast Terminal Warehouse Company has been engaged in the business of a public utility warehouseman in the city of Los Angeles since April 27, 1926. Early in September, 1950, the

company was notified that the warehouse building, which it had occupied under a lease arrangement for several years theretofore, had been sold and that it would have to vacate the premises by the end of September, 1951. Being unable to find other quarters in Los Angeles which it considered as suitable for its business, the company leased warehouse space in the contiguous city of Vernon in March, 1951, and proceeded to transfer its operations to that city. The transfer was completed on or about June 1, 1951.

In seeking authority to suspend its warehouse service in Los Angeles, applicant in effect seeks to preserve the prescriptive operative right under which its Los Angeles operations were conducted. The company's position with respect to its proposal is that the discontinuance of service was involuntary and that the service will be reestablished as soon as practicable. Applicant's general manager testified that his company's parent organization, Pacific Freight Lines, has made repeated efforts without success to find a warehouse area in Los Angeles suitable for the resumption of applicant's services. He said also that Pacific Freight Lines is contemplating the construction of a warehouse building on properties adjacent to that company's Los Angeles terminal and that if the warehouse is built, applicant will transfer its operations thereto.

In proper cases and for good cause the Commission may authorize a warehouseman to suspend its operations. The instant proceedings, however, do not provide a basis upon which the sought authority may be granted. First, the evidence is clear that Pacific Coast Terminal Warehouse Company terminated its Los Angeles operations without waiting for, or seeking, the requisite authority.

Unauthorized discontinuance of service by a public utility is tantamount to abandonment of service.¹

Second, it appears that the company has abandoned its operations in fact. Notwithstanding its allegations to the effect that the cessation of operations was unintentional, having been brought about by conditions beyond its control, the company voluntarily discontinued its Los Angeles service four months prior to the ultimate date set for the vacating of its warehouse building. Moreover, the company has not been diligent in demonstrating its intent to preserve its status as a public warehouseman in Los Angeles. During the nine months between the time it received the notice to vacate and the time it completed the transfer of its operations to the city of Vernon, the company did not seek authorization from the Commission to suspend service in Los Angeles. After having ceased its operations in Los Angeles, it allowed an additional eight months to elapse before filing its application herein.² Clearly, under the circumstances a finding other than that the operations have been abandoned may not be made. With the abandonment of operations it follows that the company also has abandoned its right to provide public warehousing services in Los Angeles. Actual operation is an essential ingredient, the sinew, of an operative right.

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Re O'Callaghan, 42 C.R.C. 264
Re Vessel Operations, 43 C.R.C. 50
Hawkins, 43 C.R.C. 303, 309
Gibson Lines and Burlington Transportation Co., 49 Cal. P.U.C. 774

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It is to be noted that the application was not filed until two and one-half months after the Commission instituted its investigation into the operating rights and operations of the company. Case No. 5354 was instituted on January 15, 1952 and Application No. 33276 was filed on March 31, 1952.

Upon careful consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds that Pacific Coast Terminal Warehouse Company no longer is a public utility warehouseman in the city of Los Angeles and that its right to operate as a public utility warehouseman in said city no longer is of any force or effect. Should the company undertake to reestablish public warehousing operations in Los Angeles at some future date, it will be expected to comply with the certifying provisions of Section 1051 of the Public Utilities Code.

In view of the conclusions and findings herein that the right of Pacific Coast Terminal Warehouse Company to conduct a public warehousing business in Los Angeles has been abandoned and is therefore nonexistent, the company's application will be dismissed. It appears that further investigation into the company's operating rights, operations and practices is unnecessary and that the investigation proceeding should be terminated. The company will be required to cancel any tariff provisions indicating that it is operating as a public utility warehouseman in the city of Los Angeles.

O R D E R

Public hearing of the above-entitled matters having been held, the evidence received having been considered carefully, and good cause appearing,

IT IS HEREBY ORDERED that

1. Application No. 33276 be and it is hereby dismissed, and that
2. Pacific Coast Terminal Warehouse Company be and it is hereby directed on or before thirty (30) days after the effective date of this order to effect cancellation of any provisions in its tariff or tariffs indicating that it is operating as a public utility warehouseman in the city of Los Angeles.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26th day of August, 1952.

President
Justin J. Cramer

Harold K. Hula

Benjamin J. Potter

John E. H. H. H.
Commissioners

Commissioner R. E. Mittelstaedt being necessarily absent, did not participate in the disposition of this proceeding.