

ORIGINAL

Decision No. 53273

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WEST LOS ANGELES MILLING CO., a corporation, and TARKE WAREHOUSE COMPANY, a corporation, for an Order Authorizing the Transfer of the Franchises and Assets of Tarke Warehouse Company to WEST LOS ANGELES MILLING CO., pursuant to a Statutory Corporate Merger Under Sections 4100 to 4318 of the Corporations Code of the State of California; and

Application
No. 37995

In the Matter of the Application of WEST LOS ANGELES MILLING CO., a corporation, for an Order Authorizing the Issuance of Shares.

C. L. McGaughey, for West Los Angeles Milling Co.;
Alvin Weis, for Tarke Warehouse Company.

O P I N I O N

This is an application for an order authorizing West Los Angeles Milling Co., a corporation, to issue \$600,000 par value of common stock in exchange for common stock of Tarke Warehouse Company, pursuant to the terms of a statutory corporate merger, and approving the terms of said merger.

In this decision West Los Angeles Milling Co. will be referred to as West Los Angeles and Tarke Warehouse Company as Tarke.

A public hearing upon the fairness of the terms and conditions of the issue and exchange of stock pursuant to the provisions of Section 822 of the Public Utilities Code was held before Commissioner Rex Hardy and Examiner Freyman Coleman in Los Angeles

on June 7, 1956, after notice of such hearing had been given by publication and by mailing to all the holders of the outstanding shares of stock of both corporations. No protests were received by the Commission and at the conclusion of the hearing the matter was taken under submission.

West Los Angeles is a public utility warehouseman operating in West Los Angeles, Oxnard, and Oceanside. Primarily, however, its business is of a nonutility nature and consists of the buying, selling, processing, and packaging of agricultural products, particularly beans.^{1/} In the conduct of its merchandising activities it purchases beans not only in Southern California, but in other areas including the Sacramento Valley, transports such purchases to its packaging plant in West Los Angeles, and thereafter distributes its products through wholesale, retail, and jobbing outlets throughout California and other states, the process involving a back-haul of packaged products to Northern California.

It appears that West Los Angeles has conducted negotiations for the acquisition of plant facilities in the Sacramento Valley which have culminated in a merger agreement with Tarke, which has been engaged in public utility warehousing of agricultural products,

^{1/} In Exhibit G, West Los Angeles reports its gross revenues for the last 6 months of 1955 as follows:

Sales of beans	\$2,077,350
Other sales	130,008
Warehouse revenues	18,154
Handling in and out	84,933
Miscellaneous	<u>311</u>
Total	<u>\$2,310,756</u>

particularly beans, and in related nonutility activities at Tarke, Sutter and Durham.^{2/}

Under the terms of the merger agreement West Los Angeles will be the surviving corporation, will succeed, without other transfer, to all the assets of Tarke, will assume its debts and liabilities, and will issue to the shareholders of Tarke two of its shares of stock of the par value of \$20 each in exchange for each share of Tarke stock of the par value of \$10 each. Presently, Tarke has outstanding 15,000 shares of stock, so that the consummation of the agreement will call for the issue by West Los Angeles of 30,000 shares of stock of the aggregate par value of \$600,000. All the shareholders of both corporations have approved the terms of the merger and of the issue and exchange of the shares of stock.

The record indicates that the terms of the exchange of stock were arrived at after a consideration of the earnings position of Tarke, anticipated savings in operating costs, and an estimate of the present value of the plant facilities. The following tabulation, prepared from financial statements of record in this proceeding, shows the recorded balances of the two corporations as of December 31, 1955, the adjustments to carry the merger agreement into effect, and the pro forma balances giving effect to such adjustments:

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In Exhibit H, Tarke reports gross revenues for the last six months of 1955 as follows:

Storage	\$ 69,734
Cleaning, fumigating, sulphur, etc.	163,167
Bags and screenings	84,158
Brokerage	44,336
Bulk handling	<u>25,041</u>
Total	<u>\$386,426</u>

	<u>West Los Angeles</u>	<u>Tarke</u>	<u>Adjustments</u>	<u>Pro Forma</u>
<u>Assets</u>				
Current assets -				
Cash	\$ 58,768	\$ 52,210	\$ -	\$ 110,978
Accounts receivable	269,440	135,688	-	405,128
Inventories	<u>712,870</u>	<u>98,833</u>	-	<u>811,703</u>
Total current assets	1,041,078	286,731	-	1,327,809
Fixed assets, less reserves	571,132	333,433	456,262 ^{3/}	1,360,827
Intangible assets	39,339	-	-	39,339
Deferred charges	<u>5,312</u>	<u>416</u>	-	<u>5,728</u>
Total	<u>\$1,656,861</u>	<u>\$620,580</u>	<u>\$456,262^{3/}</u>	<u>\$2,733,703</u>
<u>Liabilities</u>				
Current liabilities	\$ 299,023	\$194,331	-	\$ 493,354
Long-term obligations	70,000	121,000	-	191,000
Capital stock	1,199,038	150,000	{(150,000) 600,000}	1,799,038
Earned surplus	86,385	155,249	-	241,634
Paid-in surplus	<u>2,415</u>	<u>-</u>	<u>6,262</u>	<u>8,677</u>
Total	<u>\$1,656,861</u>	<u>\$620,580</u>	<u>\$456,262^{3/}</u>	<u>\$2,733,703</u>

West Los Angeles' outstanding stock consists of 59,951.875 shares of the par value of \$20 each. Tarke's stock consists of 15,000 shares of the par value of \$10 each. Upon the conclusion of the merger transaction, West Los Angeles will have outstanding 89,951.875 shares of the aggregate par value of \$1,799,037.50. For the fiscal year ended June 30, 1955, West Los Angeles reported net income of \$39,089 and Tarke \$22,467, the two figures aggregating \$61,556. For the six months ended December 31, 1955, West Los Angeles reported net income of \$30,306 and Tarke \$49,593, a total of \$79,899.

It is reported that produce is available to Tarke for purchase but that the company is not in the position to undertake transactions

^{3/} This amount represents the increase in book values pursuant to current appraisal.

in any quantities because of lack of facilities and sales outlets. Upon the merger becoming effective, West Los Angeles will install packaging machinery at Tarke and will make available to agricultural growers in the Sacramento Valley its present distribution facilities. The merger will enable West Los Angeles to acquire a greater volume of products and to package the same economically and expeditiously through localizing the packaging process in the Sacramento Valley.

It appears that the merger will not affect adversely the public utility service offered to the public but will, according to the testimony, improve service by developing a ready market for the stored commodities, which in turn should make more space available because of the more rapid movement of the stored goods. The evidence shows that West Los Angeles will adopt the present rates of Tarke.

A consideration of the evidence shows that the two corporations are reasonably successful going concerns. The merger will result in an expanded operation having a favorable cash position and a substantial volume of working capital with a relatively small amount of long-term obligations.

Upon a review of the evidence we are of the opinion and so find:

1. That the merger will not be adverse to the public interest;
2. That the terms and conditions of the issue and exchange of stock as proposed in said merger agreement are fair; and,
3. That the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in

whole or in part, reasonably chargeable to operating expenses or to income.

Upon the basis of the foregoing findings we hereby approve the terms and conditions of the merger and of the issue and exchange of stock. It is true that the transaction is based in part on appraised values of property. However, the record in this particular case warrants the Commission to depart from its usual practice of relating a stock issue to the original cost of property less depreciation. The warehouse business of both applicants represents only a small portion of the total business and is incidental to the merchandising activities, and the operations in the future, in the main, will be of a merchandising nature.

Our action in this proceeding is not to be construed as a finding of value of the properties to be merged. If called upon to fix rates for storage in the future, the values claimed in this proceeding will be subject to investigation by the Commission.

ORDER

A public hearing having been held on the above-entitled matter upon the fairness of the terms and conditions of the issue and exchange of stock by West Los Angeles Milling Co. in exchange for stock of Tarke Warehouse Company and the execution of a merger agreement, notice having been given, and the Commission having considered the evidence and being of the opinion that the application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. West Los Angeles Milling Co. and Tarke Warehouse Company

are authorized to execute and enter into an agreement of merger whereby Tarke Warehouse Company is merged into West Los Angeles Milling Co.

2. Tarke Warehouse Company, pursuant to the terms of said merger agreement, may transfer its assets to West Los Angeles Milling Co. and West Los Angeles Milling Co. may succeed to such assets and assume the payment of the outstanding liabilities of Tarke Warehouse Company.

3. West Los Angeles Milling Co. may issue not exceeding 30,000 shares of its capital stock in exchange for shares of stock of Tarke Warehouse Company, in accordance with the terms of said merger agreement.

4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs now on file with the Commission, insofar as they name rates, rules and regulations governing the warehouse operations here involved, to show that Tarke Warehouse Company has withdrawn or canceled and that West Los Angeles Milling Co. concurrently has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order in all respects shall comply with the regulations governing the construction and filing of warehouse tariffs set forth in the Commission's General Order No. 61.

5. West Los Angeles Milling Co. shall file with the Commission monthly reports of the issue of said shares of stock as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 26th
day of June, 1956.

John E. Mitchell
President

Justus J. C. ...

Paul ...

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.