

ORIGINALDecision No. 54774

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WAREHOUSEMEN'S ASSOCIATION)
 OF THE PORT OF SAN FRANCISCO,)
 Complainant,)

vs.)

Case No. 5793)

SANTA FE WAREHOUSE COMPANY,)
 a corporation, ROBERTSON DRAYAGE)
 CO., INC., a corporation, FIRST)
 DOE, and SECOND DOE,)

Defendants.

Marvin Handler, Daniel W. Baker and Jack L. Dawson,
 for complainant.
Edward M. Berol, for defendants.

O P I N I O N

The complaining association commenced this proceeding on June 27, 1956, to test the right of respondent Robertson Drayage Co., Inc. to carry on a public warehouse business in Oakland. A public hearing was held before Examiner Power on November 29, 1956, at San Francisco. The matter was submitted subject to the filing of concurrent briefs. These were received on February 25, 1957, and the matter is ready for decision.

It appears that R. H. Rasmussen and J. V. Svane, partners, doing business as Santa Fe Express and Drayage Company, filed a warehouse tariff with this Commission on July 6, 1925. Sometime subsequent to this, Rasmussen and Svane incorporated the business and conducted it thereafter through the corporation.

No authority was obtained from the Commission for this transfer at the time. Such authority was obtained later, however, under Decision No. 33207 in Application No. 23483 in 1940. The

withdrawal and adoption tariff supplement was filed on July 1st of the latter year. In this supplement, a new interest seems to appear because one George W. Waldie signed for the corporation as president. On July 12, 1945, a similar supplement was filed to report a change of name in 1942 to Santa Fe Warehouse Company. Also, in 1942, permission was obtained from the Commission to issue stock to Inter-Urban Express Corporation, indicating more clearly that this business had changed hands.

Robertson Drayage Co., Inc. took over the business by authority of Decision No. 53097. This decision was issued after public hearing in Application No. 37804. Robertson's adoption supplement was filed June 4, 1956, effective June 11, 1956.

It also appears from the evidence that the amount of business done was always small. Up until 1930, either no business was done or the volume was so small as not to be worth reporting. This warehouse operation was always conducted along with a very much greater draying business. From 1930 on, there is always some revenue and expense to report, however small.

In considering this record the Commission is of the opinion that great weight should be given to the time factor. One of the oldest and best settled principles of Anglo-American law is that disputes affecting rights of commerce should be set at rest as quickly as possible. The numerous statutes of limitations and the equitable doctrine of laches proceed from this concept. A right which has been in use for more than a quarter of a century should not be destroyed without the clearest kind of evidence.

Such evidence is wanting here. We know that a tariff has been on file since 1925, two years before the "grandfather" date,

(August 2, 1927). There is no evidence whatsoever that any goods offered for storage have ever been refused, either for lack of space or any other reason.

The Commission finds and concludes that no good cause has been shown for revocation or cancellation of the operating right, as a public utility warehouse referred to in the foregoing opinion.

ORDER

Public hearing having been held and the Commission basing its decision on the findings and the conclusions set forth in the foregoing opinion,

IT IS ORDERED:

That Case No. 5793 be, and it is, dismissed.

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

Dated at San Francisco, California, this 2nd day of April, 1957.

[Signature]
President

[Signature]

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Commissioners