

ORIGINALDecision No. 57384

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DANIEL C. FESSENDEN, an individual, doing business as CALIFORNIA WAREHOUSE CO., to transfer, and DANIEL C. FESSENDEN COMPANY, a corporation, doing business as CALIFORNIA WAREHOUSE CO., to acquire operating rights and properties of a public warehouse, and to issue stock.

Application No. 40342

O P I N I O N

Daniel C. Fessenden, applicant transferor, is now operating a public warehouse business pursuant to the authority granted by this Commission in Decision No. 48665, dated June 1, 1953, on Application No. 34320. The business is located at 1248 Wholesale Street, Los Angeles, California.

Transferor is also engaged in operations as a highway common carrier of property in the Los Angeles area under prescriptive operating rights recognized by the Commission in its Decision No. 14404 and transferred to him by the Commission in said Decision No. 48665. Said operations are also conducted by transferor under certificate of public convenience and necessity granted to him by the Commission in its Decision No. 55973, dated December 16, 1957, and under radial highway common carrier, highway contract carrier, and city carrier permits issued by the Commission.

A balance sheet dated June 30, 1958 (Exhibit A), listing together warehouse and trucking assets and liabilities of

Daniel C. Fessenden, shows total assets of \$152,906.67 and total liabilities of \$16,885.10, resulting in a net capital worth of \$136,021.57.

It is proposed to sell and transfer only the warehouse business to a newly formed California corporation, in exchange for shares of said company and an assumption of indebtedness. The transferee, Daniel C. Fessenden Company, has an authorized capital of \$75,000, divided into 7,500 shares of the par value of \$10 each. No shares are now outstanding.

The property to be acquired by transferee includes the public warehouse operating rights owned by transferor and hereinbefore described, the good will and name of the business conducted by transferor under said operating rights, and certain assets owned and used by transferor therein and having a total book value of \$49,142.44 as of June 30, 1958. The transferee will also assume certain current liabilities of said business in the total amount of \$8,785.61 as of said date. A pro forma balance sheet reflecting consummation of the proposed transaction and setting forth the assets to be transferred to transferee and the liabilities to be assumed is as follows:

ASSETSCURRENT ASSETS:

Cash		\$10,000.00
Special Deposits		1,500.00
Accounts Receivable	\$33,336.61	
Less Reserve for Bad Debts	<u>3,151.75</u>	30,184.86
Prepayments		4,527.18
Materials and Supplies		<u>2,930.40</u>
Total Current Assets		\$49,142.44

LIABILITIES AND CAPITALCURRENT LIABILITIES:

Accounts Payable		\$ 858.86
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ACCRUED LIABILITIES:

Payroll Taxes	\$ 2,706.15	
Insurance	1,116.84	
Salaries, Wages & Vacation	<u>4,103.76</u>	<u>\$ 7,926.75</u>
Total Liabilities		\$ 8,785.61

CAPITAL:

Capital Stock		<u>40,356.83</u>
Total Liabilities and Capital		\$49,142.44

As indicated, the net value of the assets to be transferred less the liabilities to be assumed is \$40,356.83. The consideration to be paid by transferee to transferor for said property will be the assumption of said liabilities of \$8,785.61 and the issuance to transferor of shares of stock having a total par value of \$40,356.83.

The proposed transaction will result in the incorporation of the public warehouse business presently owned and conducted by transferor as an individual. Transferor will be the sole stockholder of transferee and will continue to manage said business as the president of transferee. The purposes of the proposed transaction are to eliminate transferor's personal liability inherent in the operation of said business as an individual, to minimize

income taxes on the profit of said business, and to provide for the continued operation of said business without interruption in the event of the death of transferor.

The transferor is presently conducting operations under said public warehouse rights and such operations will be continued in the same manner and with the same personnel by the transferee.

The transfer herein proposed is limited to the public warehouse business and operations of transferor and does not include the motor carrier operations and business owned and conducted by transferor and the motor carrier operating rights hereinbefore described. Transferor will retain said motor carrier business and operations and continue to operate them as an individual.

After a full consideration of this matter we hereby find that the proposed transfer of the operative rights and properties and business in connection therewith by Daniel C. Fessenden, doing business as California Warehouse Co., to Daniel C. Fessenden Company, a corporation, doing business as California Warehouse Co., is not adverse to the public interest and accordingly it will be authorized. A public hearing is not necessary.

In authorizing this transfer we are making no finding of value of the operative rights, and hereby place the transferee upon notice that operative rights, as such, do not constitute a class of property which may be 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 over a

particular route. 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.

O R D E R

Application having been made, the Commission being fully advised in the premises and finding that the money, property, or labor to be procured or paid for through the issue of \$40,356.83 of common stock herein authorized is reasonably required by applicant for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

(1) That Daniel C. Fessenden may sell and transfer, on or before sixty days after the effective date of this order, the operative rights and business and assets referred to herein to Daniel C. Fessenden Company, a California corporation, and the latter, in acquiring the same, may assume the payment of outstanding indebtedness and issue 4,035.68 shares of its common stock at its par value for the purposes set forth in the preceding opinion.

(2) That within sixty days after the effective date of this order, and 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 on file with the Commission naming rates, rules and regulations governing the warehouse operation here involved to show that Daniel C. Fessenden has withdrawn or canceled and Daniel C. Fessenden Company has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order shall

comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61.

(3) That, in the event the authority to sell and transfer is exercised, Daniel C. Fessenden Company, the transferee, shall notify the Commission in writing of that fact within thirty days after the date of sale.

(4) That Daniel C. Fessenden Company, transferee herein, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

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

Dated at San Francisco, California,
this 29th day of September, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners