

ORIGINAL

Decision No. 60458

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
H. B. JOHNSTON, JR., an individual,
doing business as CITIZEN'S WAREHOUSE,
for an in lieu certificate of public
convenience and necessity as a highway
common carrier of general commodities
between points in the Los Angeles
Basin Territory and between said
Territory and San Diego serving
intermediate points, pursuant to
Sections 1063-1064 of the
California Public Utilities Code.

Application
No. 41380

In the Matter of the Application of:

- (a) CITIZENS WAREHOUSE TRUCKING
COMPANY, INC., a corporation,
for authority to issue shares
of its common capital stock
pursuant to Sections 816-830
of the California Public
Utilities Code; and
- (b) H. B. JOHNSTON, JR., an
individual doing business as
CITIZEN'S WAREHOUSE to sell,
and CITIZENS WAREHOUSE TRUCKING
COMPANY, INC., a corporation, to
purchase a certificate of public
convenience and necessity to
operate as a highway common
carrier and certain other
property useful in connection
with performance of public
utility service, pursuant to
Sections 851-853 of the
California Public Utilities Code.

Application
No. 42339

O P I N I O N

Application No. 42339 was filed on June 10, 1960, for an
order authorizing Citizens Warehouse Trucking Company, Inc., to
issue \$71,968 par value of its common stock in acquiring highway

common carrier operative rights and properties from H. B. Johnston, Jr., an individual doing business as Citizen's Warehouse.

Citizens Warehouse Trucking Company, Inc., was organized by H. B. Johnston, Jr., on or about April 1, 1960, under the laws of the State of California. It has an authorized capital stock of 500,000 shares of the par value of \$1 each and it proposes, at this time, to issue 71,968 of said shares to H. B. Johnston, Jr., in consideration of the transfer to it of said Johnston's operative rights and tangible properties, subject to outstanding liabilities. A pro forma statement, dated as of March 31, 1960, giving effect to the issue of stock and the transfer, is as follows:

<u>Assets</u>	
Current assets	\$ 61,262
Tangible property, less reserve	112,267
Franchises	<u>1</u>
Total	<u>\$173,530</u>
 <u>Liabilities and Capital</u>	
Current liabilities	\$ 27,089
Reserve for loss and damage	1,260
Long-term obligations	73,213
Common stock	<u>71,968</u>
Total	<u>\$173,530</u>

Applicant Johnston has been conducting his operations several years. The operative rights he proposes to transfer to the corporation are represented by an in-lieu certificate granted by Decision No. 59824, dated March 22, 1960, in Application No. 41380, which enlarged his service area and operations as a highway common carrier between points within the Los Angeles

Basin Territory and between said territory on the one hand and the San Diego Territory on the other hand. That decision, as amended, required that the service be established and the tariffs be filed with the Commission not later than August 15, 1960.

In succeeding to the operations, the new corporation will adopt the tariffs of applicant Johnston. It appears that there will be no suspension or interruption in the service to the public or change in the rates or management as the result of the transfer. We find and conclude, therefore, that the proposed transfer will not be adverse to the public interest, that the money, property or labor to be procured or paid for through 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. We will enter our order granting applicants' requests.

Applicants are hereby placed on 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 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 as to the number of rights which may be given.

The action taken herein shall not be construed to be a finding of the value of the operative rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above-entitled matters and being of the opinion that a public hearing is not necessary, therefore,

IT IS HEREBY ORDERED as follows:

1. H. B. Johnston, Jr., on or after the effective date hereof and on or before December 31, 1960, may transfer to Citizens Warehouse Trucking Company, Inc., his highway common carrier operative rights and properties under the terms and conditions set forth in Application No. 42339.

2. Citizens Warehouse Trucking Company, Inc., on or after the effective date hereof and on or before December 31, 1960, in payment for such operative rights and properties, may assume the payment of outstanding obligations of H. B. Johnston, Jr., and may issue not to exceed 71,968 shares of its common stock of the par value of \$1 per share.

3. 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 highway common carrier operations of H. B. Johnston, Jr., to show that H. B. Johnston, Jr., doing

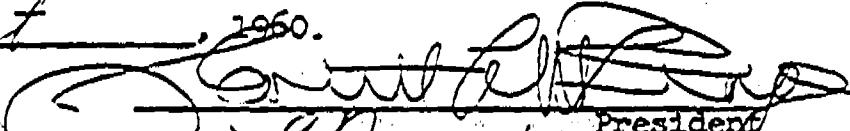
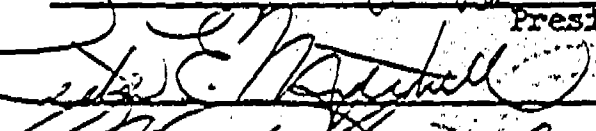
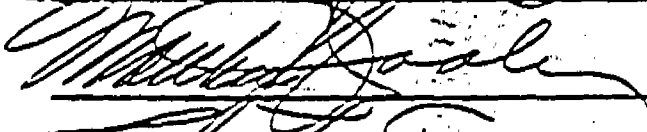

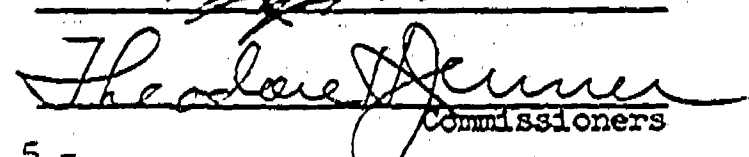
business as Citizen's Warehouse, has withdrawn or canceled and Citizens Warehouse Trucking Company, Inc., has adopted or established, as its own, said rates, rules and regulations and, in addition, Citizens Warehouse Trucking Company, Inc., shall file tariffs satisfactory to the Commission to cover the additional rights granted by Decision No. 59824, dated March 22, 1960, in Application No. 41380. 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. 80.

4. Effective simultaneously with the effective date of the tariff filings required by and pursuant to the provisions of Paragraph 3 hereof, the highway common carrier operative rights covered by Ordering Paragraph (3) of Decision No. 59824, dated March 22, 1960, in Application No. 41380, are revoked.

5. Citizens Warehouse Trucking Company, Inc., 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.

6. The authority herein granted shall become effective 20 days after the date hereof.

Dated at San Francisco, California, this
2nd day of August, 1960.


President




Commissioners