

ORIGINAL

Decision No. 61161

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 L. M. QUARTAROLI, GEORGE K. BEARD
 (aka G. K. BEARD), T. K. BEARD,
 ROBERT ELLEDGE (aka ROBERT R. ELLEDGE),
 PETER QUARTAROLI, CECIL T. JONES,
 B. MARTINSEN, AND WELLS FARGO BANK
 AMERICAN TRUST COMPANY, Executor
 Estate of RALPH J. QUARTAROLI
 (aka R. J. QUARTAROLI), deceased,
 doing business as copartners under
 the firm name and style of CENTRAL
 TERMINALS for an order authorizing
 them to sell and transfer their
 properties and operative rights as
 a public utility warehouseman; and
 of MODESTO TERMINALS, a California
 corporation, for an order authorizing
 it to purchase and acquire said
 properties and operative rights,
 and for an order authorizing it
 to issue shares of its capital
 stock.

Application No. 42860

O P I N I O N

This application was filed on November 16, 1960, for
 an order of the Commission authorizing L. M. Quartaroli, et al,
 partners doing business as Central Terminals, to transfer
 warehouse operative rights and equipment to Modesto Terminals,
 a corporation, and authorizing Modesto Terminals to issue
 \$10,000 par value of common stock.

The operative rights to be transferred are
 prescriptive in their nature and were determined by the
 Commission by its order in Case No. 6668 as consisting of

34,350 square feet of floor space in Modesto, exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code. The equipment to be transferred includes furniture, warehouse equipment, lift trucks and an automobile.

The application shows that the present owners desire to terminate their partnership because of the death of one of the members and that they have made arrangements to sell the rights and equipment to the corporation for the agreed price of \$9,026.02, plus the assumption of current liabilities of the partnership.

The new corporation proposes to adopt the present rates, rules and regulations and to continue the public utility warehouse operations. It intends, and seeks authorization, to issue and sell \$10,000 par value of its common stock, at par, to Beard Land and Investment Co. to finance the acquisition and operations.

Upon reviewing this application, we find and conclude that the proposed transfer will not be adverse to the public interest and that the application should be granted. In making this order, we place Modesto Terminals upon 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 which 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 authority herein granted shall not be construed to be a finding of the value of the operative rights and equipment herein authorized to be transferred.

O R D E R

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

1. That L. M. Quartaroli, George K. Beard, T. K. Beard, Robert Elledge, Peter Quartaroli, Cecil T. Jones, B. Martinsen and Wells Fargo Bank American Trust Company, as executor of the will of Ralph J. Quartaroli, deceased, doing business as copartners under the firm name and style of Central Terminals, on or after the effective date hereof and on or before February 28, 1961, may transfer the warehouse

operative rights and equipment referred to herein to Modesto Terminals, a corporation, under the terms and conditions set forth in this application.

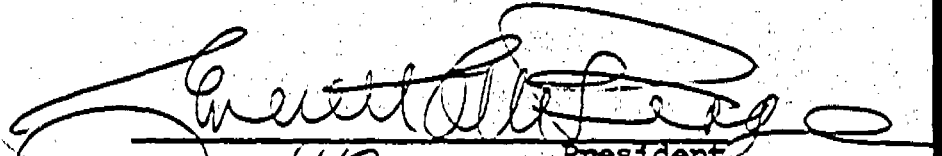
2. That Modesto Terminals, a corporation, on or after the effective date hereof and on or before February 28, 1961, may issue and sell not to exceed \$10,000 par value of its common stock, at par, to Beard Land and Investment Co., for the purpose of financing the acquisition of said operative rights and equipment and of providing working capital.

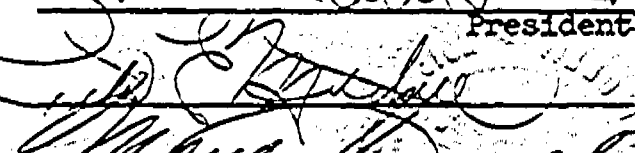
3. That on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs now on file with the Commission, insofar as they name rates, rules and regulations governing the warehouse operations here involved to show that L. M. Quartaroli, George K. Beard, T. K. Beard, Robert Elledge, Peter Quartaroli, Cecil T. Jones, B. Martinsen and Wells Fargo Bank American Trust Company, as executor of the will of Ralph J. Quartaroli, deceased, doing business as copartners under the firm name and style of Central Terminals, have withdrawn or canceled and that Modesto Terminals, a corporation, concurrently 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 warehouse tariffs set forth in the Commission's General Order No. 61.

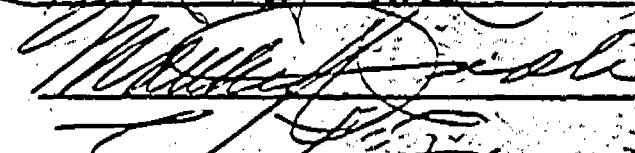
4. That Modesto Terminals, a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

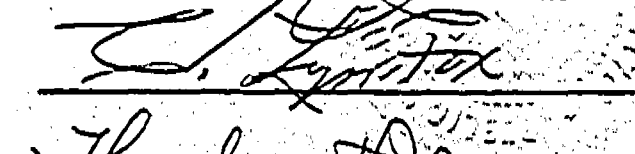
5. That the authority herein granted shall become effective on the date hereof.

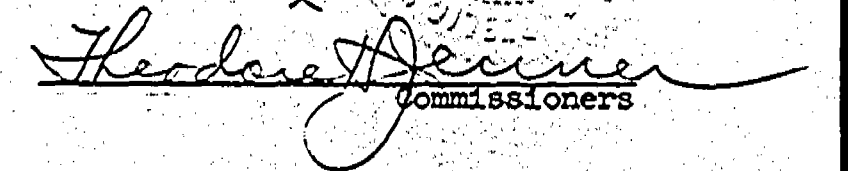
Dated at San Francisco, California,
this 13th day of December, 1960.



President








Commissioners