

ORIGINALDecision No. 64438

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WARREN BALLINGER, an individual)
 doing business as WARREN BALLINGER)
 WAREHOUSE CO., to sell, and BANNER)
 WAREHOUSE CO., a corporation, to)
 purchase prescriptive warehouse)
 operating rights.)

Application No. 44785

O P I N I O N

Warren Ballinger, doing business as Warren Ballinger Warehouse Co., requests authority to sell and transfer and Banner Warehouse Co. requests authority to purchase and acquire certain warehouse rights for a cash consideration of \$5,000.

The operative rights are prescriptive in nature and authorize public utility warehousing in the City and County of San Francisco.

By Decision No. 63028 dated January 9, 1962, applicant seller was authorized to suspend operations for a period of one year following the destruction of his warehouse property on October 29, 1961.

It is alleged that applicant seller formerly owned the stock of applicant purchaser; that prior to the filing of the instant application applicant sold all of the stock of applicant purchaser to Oscar F. Gloistein, who, through stock ownership, controls De Pue Drayage Corp., a highway common carrier operating in the San Francisco Bay area; that the acquisition of the warehouse authority will permit the integration of warehousing and motor carrier operations by the two companies; that the warehouse

operations will be conducted on property located at 900 Minnesota Street, San Francisco, under a sublease arrangement with De Pue Drayage Corp.; and that applicant purchaser will not be required to make any capital investment in facilities in order to conduct the warehouse operations.

As of August 31, 1962, applicant purchaser indicated a net worth in the amount of \$9,245. According to the application Oscar F. Gloistein will make available to applicant purchaser additional financing if such proves necessary.

The annual report filed with this Commission by Warren Ballinger Warehouse Co., for the year ending December 31, 1960, shows that applicant seller operated 25,000 square feet of public utility warehouse floor space during that period.

The application states that the purchaser intends to publish, on the granting of the application, the proposed tariff appended to the application as Exhibit "D", and does not intend to adopt seller's present tariff. The proposed tariff contains numerous increases in rates over the rates filed with the Commission by the seller. The application states seller's tariff has not been changed for a number of years, and does not truly reflect the costs of operation. No showing has been made to support the proposed increases. We find that the proposed increased rates have not been justified. The authority to publish the proposed tariff set forth in Exhibit "D" will be denied. Applicant purchaser will be required to adopt the rates now on file with the Commission by seller.

After consideration, the Commission finds that the proposed sale would not be adverse to the public interest. A public hearing is not necessary.

O R D E R

Application having been filed and the Commission having considered the record herein,

IT IS ORDERED that:

1. On or before February 1, 1963, Warren Ballinger may sell and transfer, and Banner Warehouse Co., a corporation, may purchase and acquire the prescriptive rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Banner Warehouse Co. shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the warehouse operations here involved to show that Warren Ballinger has withdrawn or canceled, and Banner Warehouse Co. has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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.

4. Concurrent with the consummation of the transfer herein authorized and compliance with ordering paragraph 3 hereof the suspension authorized by Decision No. 63028 is hereby set aside.

5. Concurrently with the effective date of the tariff filings made in accordance with ordering paragraph 3 hereof, the operative authority as a public utility warehouseman currently held by Warren Ballinger is hereby revoked and, in place and stead thereof, prescriptive operative rights as a public utility warehouseman are stated for Banner Warehouse Co., a corporation, as more particularly set forth in Appendix A attached hereto and by this reference made a part hereof.

6. In providing service pursuant to the operative authority set forth herein, Banner Warehouse Co. shall comply with and observe the following service regulation:

Within thirty days after the effective date hereof, it shall file a written acceptance of the operative right herein stated. By accepting the operative right herein stated, it is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file said reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operative right set forth in Appendix A hereof.

7. In all other respects, Application No. 44785 is denied.

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

Dated at San Francisco, California, this 23rd day of OCTOBER, 1962.

George H. Crover
President
W. D. Mitchell
W. J. Lynton
Robert W. Long
Frederick B. Hallock
Commissioners

BANNER WAREHOUSE CO.
(a corporation)

Appendix A

Banner Warehouse Co., a corporation, possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
City and County of San Francisco	25,000

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 64438, Application No. 44785.