

ORIGINAL

Decision No. 67788

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HAROLD R. GEISTER and MELVIN A. GEISTER, co-partners doing business as MARIN COUNTY STORAGE and TRUCKING CO. for authorization to transfer, and of MARIN STORAGE & TRUCKING, INC. to acquire from HAROLD R. GEISTER and MELVIN A. GEISTER, doing business as MARIN COUNTY STORAGE and TRUCKING CO., their prescriptive operative right as a public utility warehouseman and their cement carrier certificate together with related assets; and of MARIN STORAGE & TRUCKING, INC., for authorization to issue stock.

Application No. 46871
Filed August 5, 1964

O P I N I O N

This is an application for an order of the Commission (1) authorizing Harold R. Geister and Melvin A. Geister, co-partners doing business as Marin County Storage and Trucking Co., to sell and transfer a prescriptive operative right as a public utility warehouseman and a cement carrier certificate, together with certain related assets, to Marin Storage & Trucking, Inc., and (2) authorizing Marin Storage & Trucking, Inc., in acquiring such rights and assets, to issue \$21,600 par value of its common stock.

The copartners are engaged in business as a public utility warehouseman in the City of San Rafael pursuant to the prescriptive operative right determined by the Commission on

July 12, 1960, in Case No. 6609, which authorizes the operation of 10,000 square feet of storage or warehouse floor space, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code. In addition, they possess a certificate to operate as a cement carrier in Marin County under authority granted by the Commission in Sub. No. 39 of Resolution No. 13825, dated June 23, 1964, and they also conduct nonutility operations.

In this proceeding, the copartners propose to sell and transfer said prescriptive operative right, cement carrier certificate and certain related assets to Marin Storage & Trucking, Inc. Exhibit A, attached to the application, consists of a balance sheet as of March 20, 1964, which indicates that of \$25,678.26 in total assets to be transferred, an amount of \$25,176.59 represents cash and receivables and that current liabilities to be assumed aggregate \$4,078.26.

Marin Storage & Trucking, Inc., a California corporation organized on or about March 20, 1964, proposes to acquire said operating rights and assets, subject to existing liabilities, at their net book value of \$21,600, and it seeks authority to issue 216 shares of common stock having an aggregate par value of \$21,600 in exchange therefor.

The Commission has considered this matter and finds that: (1) the proposed sale and transfer would not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

Marin Storage & Trucking, Inc. is 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, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled 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 other assets herein authorized to be transferred, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates. So far as the rights are concerned, the authorization herein granted is for the transfer of only the prescriptive operative right as a public utility warehouseman

and the cement carrier certificate now held by Harold R. Geister and Melvin A. Geister as copartners. The transfer of permitted operative rights must be the subject of a separate application, or applications.

O R D E R

IT IS ORDERED that:

1. On or before November 30, 1964, Harold R. Geister and Melvin A. Geister, copartners doing business as Marin County Storage and Trucking Co., may sell and transfer, and Marin Storage & Trucking, Inc. may purchase and acquire the public utility warehouseman prescriptive operative right, cement carrier certificate and other assets referred to in the application. Said sale and transfer may be made effective as of March 20, 1964, for accounting purposes.

2. Marin Storage & Trucking, Inc., on or before November 30, 1964, may issue not to exceed \$21,600 par value of its common stock in part payment for said operating rights and assets.

3. Marin Storage & Trucking, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Marin Storage & Trucking, Inc. 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 such transfer.

5. Marin Storage & Trucking, Inc. shall amend or re-issue the tariffs on file with the Commission, naming rates and rules governing the warehouse and cement carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the date of this order on not less than ten 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 Orders Nos. 61-A and 80-A.

6. Concurrently with the effective date of tariff filings for warehouse operations required by Ordering Paragraph 5 hereof, the prescriptive operative authority set forth in the Order dated July 12, 1960, in Case No. 6609, is hereby revoked and, in place and stead thereof, a prescriptive operative right as a public utility warehouseman is hereby stated for Marin Storage & Trucking, Inc. as more particularly set forth in Appendix A, attached hereto.

7. In providing service pursuant to the warehouseman operative authority set forth herein, Marin Storage & Trucking, Inc. shall comply with and observe the following service regulation:

Within thirty days after the date hereof, it shall file a written acceptance of the operative right herein stated. By accepting such operative right, 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.

8. On or before the end of the third month after the consummation of the transfer as herein authorized, Marin Storage & Trucking, Inc. shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer for accounting purposes.

9. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of September, 1964.

Frederick B. Hobbett
President
George L. Trover
William A. Dewald

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

MARIN STORAGE & TRUCKING, INC.
(a corporation)

Marin Storage & Trucking, Inc., 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>No. of Square Feet of Floor Space</u>
San Rafael	10,000

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

End of Appendix A

Issued by California Public Utilities Commission
Decision No. 67738, Application No. 46871.