

ORIGINAL

Decision No. 70353

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 W. HAROLD FINLEY, INC., a corporation,)
 to transfer, and of ORLO M. HOBBS,)
 CHARLES W. HOBBS, and MILES P. NESBITT,)
 copartners doing business under the)
 fictitious firm name and style of)
 HOBBS TRUCKING CO., to acquire, a)
 certificate of public convenience and)
 necessity for the transportation of)
 general and special commodities between)
 various points in Southern California)
 and a public warehouse prescriptive)
 right pursuant to Sections 851-853 of)
 the California Public Utilities Code.)

Application No. 47836
(Filed August 24, 1965)

Russell & Schureman, by R. Y. Schureman,
for applicants.
George L. Hunt, for the Commission staff.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on November 15, 1965, on which date it was submitted. Copies of the application and the notice were served in accordance with the Commission's procedural rules. There are no protests. A Commission transportation rate expert appeared and examined applicants' witnesses.

Applicants W. Harold Finley, Inc., a corporation, and Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt, copartners doing business under the fictitious firm name and style of Hobbs Trucking Co., who are now the sole owners of all the corporate stock of Finley, hereinafter sometimes referred to as Finley and Hobbs,

respectively, seek to consolidate their operations by transfer to Hobbs of all of Finley's operations, consisting of a certificate of public convenience and necessity described in Decision No. 60546, dated August 9, 1960, and transferred to Finley by Decision No. 62173, dated June 27, 1961, and registered with the Interstate Commerce Commission in Docket No. MC-62469, Sub. No. 7, under provisions of Section 206 (a) (7) of the Interstate Commerce Act, and city carrier, radial highway common carrier, highway contract carrier, household goods carrier permits, and a public warehouse prescriptive right recognized by the Public Utilities Commission in Case No. 6588, and also a certificate of public convenience and necessity issued in Docket No. MC-62469 and related sub numbers.

Finley will voluntarily wind up and dissolve and transfer to Hobbs all of the certificated operating authorities and prescriptive warehouse rights, motor vehicle equipment and all other assets of Finley, except duplicating permitted carrier operating authorities, in consideration of the cancellation of the stock of Finley pursuant to Section 851 of the California Public Utilities Code, and Hobbs assuming and agreeing to pay all of the liabilities of Finley. Hobbs will adopt the highway common carrier tariff of Finley. Hobbs will adopt the warehouse tariff of Finley published in Warehouse Tariff No. 2 (Cal. P.U.C. No. 1), W. Harold Finley, Series.

The Hobbs partnership will continue to conduct the motor carrier operations of Finley without interruption of service. There will be available to the public all of the motor vehicle equipment and other assets of both Finley and Hobbs.

The present warehouse location of Finley at 355 West First Street, Tustin, and the present terminal address of Hobbs at

501 East Julianna Street, Anaheim, are located in the County of Orange and are less than eight miles apart and are part of the same general industrial area. It is proposed to move the warehouse location to the present terminal point of Hobbs and continue service to those members of the general public who customarily patronize the warehouse service of Finley.

There will be no change in the personnel conducting the business of Finley. There will be no changes in the rates and other charges now assessed the public.

A balance sheet of Finley, attached to the application, discloses total assets of \$93,827, total current liabilities of \$10,404, and total capital and surplus of \$75,587; a profit and loss statement showing operating revenue of \$59,389 and net loss of \$5,448 for the first half of 1965; the balance sheet for Hobbs Trucking Co. discloses current assets of \$57,136, current liabilities of \$56,148, operating revenues of \$169,046, and net income of \$787 for the first half of 1965. Attached to the application is an equipment list of Finley showing 46 units and of Hobbs showing 88 units.

One of the partners of Hobbs testified that the transfer would enable the firm to effect substantial savings in operation and to improve the efficiency of service. He stated that the transfer of the warehouse would provide better customer service and at present there were no customers at the old warehouse.

Three public witnesses testified that they need and will use the service to be provided by the new warehouse and are in favor of the transfer.

In lieu of granting transfer, the prescriptive warehouse rights of Finley in Tustin will be revoked and a new certificate of public convenience and necessity to operate as a warehouseman in Anaheim will be granted to Hobbs, Hobbs and Nesbitt. Both of such actions are supported by the record herein.

Upon consideration of the evidence, the Commission finds as follows:

1. The transfer of the Finley permits, rights and assets to Hobbs Trucking Co., the sole owner of the stock of Finley, as herein authorized, will not be adverse to the public interest.

2. The closing of the warehouse in Tustin and revocation of prescriptive rights of W. Harold Finley, Inc., to operate it as warehouseman will not be adverse to the public interest.

3. Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt are the sole owners of the stock of Finley and have the financial resources, experience, facilities, equipment and personnel to conduct the common carrier operations and the Anaheim warehouse services hereinafter authorized.

4. Public convenience and necessity require that the certificate granted by Decision No. 60546, dated August 9, 1960, be transferred to Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt as herein authorized.

5. Public convenience and necessity require that a certificate of public convenience and necessity be granted to Arlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt, authorizing them to operate as a public utility warehouseman in Anaheim.

The Commission concludes that the application should be granted.

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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. 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.

O R D E R

IT IS ORDERED that:

1. Within sixty days after the effective date of this order, W. Harold Finley, Inc., a corporation, is authorized, subject to the conditions of this order, to sell and transfer its certificate of public convenience and necessity set forth in Decision No. 60546, dated August 9, 1960, and registered with the Interstate Commerce Commission in Docket No. MC-62469, Sub. No. 7, and Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt,

doing business as Hobbs Trucking Co., are hereby authorized to acquire said properties.

2. The prescriptive rights of W. Harold Finley, Inc., to operate as a warehouseman in Tustin are revoked.

3. A certificate of public convenience and necessity is granted to Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt, authorizing operation as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code, to store or utilize floor space as set forth in Appendix A attached hereto and made a part hereof.

4. Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that they have adopted or established, as their 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 Orders Nos. 80-A and 61-A.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the

seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

6. When providing service pursuant to the certificate granted by ordering paragraph 3 of this decision, Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their operations. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the public utility warehouse operations authorized by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicants shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than ten days after the effective 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 establishment of the service herein authorized.

(d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

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

Dated at San Francisco, California, this 15th day of FEBRUARY, 1966.

Fredrick B. Holoboff
President

Auguston

William C. Burnett

Commissioners

I concur in the result.
George T. Grover

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

ORLO M. HOBBS, CHARLES W. HOBBS
and MILES P. NESBITT
(a copartnership)

Appendix A

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Orlo M. Hobbs, Charles W. Hobbs and Miles P. Nesbitt, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to operate 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>
Anaheim	10,000

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

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 70353, Application No. 47836.