

Decision No. 71400

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)	
of VERNON J. CRISTINA dba CRISTINA)	
WAREHOUSE COMPANY, to transfer, and)	Application No. 48776
of CRISTINA WAREHOUSE CO., INC., a)	Filed September 12, 1966
California corporation, to purchase,)	and Amendment
a certificate of public convenience)	Filed September 16, 1966
and necessity as a public)	
warehouseman; the latter to issue)	
and sell its securities.)	

O P I N I O N

This is an application for an order of the Commission authorizing (1) the transfer of a certificate of public convenience and necessity as a public utility warehouseman together with related assets and subject to liabilities from Vernon J. Cristina, an individual doing business as Cristina Warehouse Company, to Cristina Warehouse Co., Inc., and (2) the issue by Cristina Warehouse Co., Inc. of 3,500 shares of its \$10 par value capital stock.

Vernon J. Cristina operates as a public utility warehouseman in the City of San Jose pursuant to a certificate of public convenience and necessity granted by Decision No. 60255, dated June 14, 1960, in Application No. 41671. Said certificate authorizes the operation of 48,000 square feet of floor space exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.

Cristina Warehouse Co., Inc. is a California corporation organized on or about July 14, 1966. It proposes to issue 3,500 shares of its \$10 par value capital stock and to assume liabilities in exchange for said certificate and certain other assets. The results of the proposed transaction, as of August 1, 1966, are set forth in the pro forma balance sheet attached to the application as part of Exhibit G, which is summarized as follows:

Assets

Current assets	\$24,040
Net plant assets	68,363
Operating rights	<u>555</u>
Total	<u>\$92,958</u>

Liabilities

Current liabilities	\$52,757
Equipment obligations, including current maturities	5,201
Common stock - to be issued	<u>35,000</u>
Total	<u>\$92,958</u>

The Commission has considered this matter and finds that:

(1) the proposed transfer will 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 the foregoing findings we conclude that the application, as amended, should be granted. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Vernon J. Cristina and the

issuance of a certificate in appendix form to Cristina Warehouse Co., Inc.

Cristina Warehouse Co., 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.

In issuing our order herein, we place Cristina Warehouse Co., Inc. and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return the company should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of the value of its stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1966, Vernon J. Cristina may sell and transfer, and Cristina Warehouse Co., Inc. may purchase and acquire, the operative right and property referred to

in the application. Applicants may consummate the transfer as of August 1, 1966, for accounting purposes.

2. Cristina Warehouse Co., Inc., on or before December 31, 1966, for the purpose specified in this proceeding, may issue, at par, not to exceed \$35,000 par value of its capital stock.

3. Cristina Warehouse Co., 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, Cristina Warehouse Co., 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 said transfer.

5. Cristina Warehouse Co., Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse 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 Order No. 61-A.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, Cristina Warehouse Co., Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the warehouse operations of the transferor for the period commencing with the first day of the current year to and including the effective date for accounting purposes of the transfer.

7. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Cristina Warehouse Co., Inc., a corporation, as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in paragraph 7 of this order shall supersede the certificate of public convenience and necessity granted to Vernon J. Cristina by Decision No. 60255, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 5 hereof.

9. Within thirty days after the date hereof, Cristina Warehouse Co., Inc. shall file a written acceptance of the certificate herein granted. The company is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its 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.

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

Dated at San Francisco, California
this 11th day of OCTOBER, 1966.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Cristina Warehouse Co., Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate storage or warehouse floor space as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
San Jose	48,000

(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. 71400, Application No. 43776.