

ORIGINAL

Decision No. 73239

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 (a) W. O. Kobusch doing business as
 Kobusch Moving & Storage Company, to
 sell and San Diego Van & Storage
 Company, a corporation, to purchase
 a warehouse operating authority,
 pursuant to Section 851, et seq. of
 the California Public Utilities Code;
 and upon approval thereof,
 (b) To transfer said warehouseman's
 rights and privileges from Lemon
 Grove to the City of San Diego,
 California.

Application No. 49495
 (Filed June 26, 1967; Amended
 September 22, 1967)

O P I N I O N

By this application W. O. Kobusch, doing business as Kobusch Moving & Storage Company, hereinafter referred to as seller, seeks authority to sell and San Diego Van & Storage Company, a California corporation, hereinafter referred to as buyer, seeks authority to purchase a prescriptive operating right as a public utility warehouseman. Buyer also seeks authority to transfer the public utility warehouse facility from its present location, Lemon Grove, to San Diego.

Seller conducts business as a public utility warehouseman pursuant to a prescriptive right set forth by Commission Order in Case No. 6902, dated August 30, 1960. Said right authorizes the operation of 10,000 square feet of floor space at Lemon Grove, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code. The agreed cash consideration is less than \$500. There are no protests.

The application states that seller is desirous of terminating his public utility warehouseman operation, and that buyer's president has owned and operated three warehouse buildings

during the past twenty years. Buyer has leased land and 15,000 feet of warehouse space with truck docks and a railroad spur track at 1944 Commercial Street, San Diego. The location is approximately ten miles from seller's present warehouse facilities.

The application alleges that buyer has had numerous requests from the public for warehouse facilities in San Diego and that the proposed operation will render a needed and useful service which will not unreasonably affect other warehousemen operating in the area. The application further alleges that seller is not presently storing any goods under his public utility warehouseman authority.

As of August 31, 1966 buyer indicated a net worth of \$130,260.

After consideration, the Commission finds that the proposed transfer of the operating authority and of the location of the public utility warehouse facility would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the prescriptive right presently held by seller and the issuance of a certificate in appendix form to buyer.

San Diego Van & Storage Company 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 at a particular location. 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 authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before April 1, 1968, W. O. Kobusch, doing business as Kobusch Moving & Storage Company, may sell and transfer, and San Diego Van & Storage Company, a corporation, may purchase and acquire the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, San Diego Van & Storage Company 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. San Diego Van & Storage Company 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 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 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, San Diego Van & Storage Company 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 fiscal year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to San Diego Van & Storage Company, 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.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the prescriptive right set forth in Commission Order in Case No. 6902, which prescriptive right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.


7. In providing service pursuant to the certificate herein granted, buyer shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, buyer shall file a written acceptance of the certificate herein granted. Applicant 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.


- (b) Within one hundred twenty days after the effective date hereof, buyer 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.

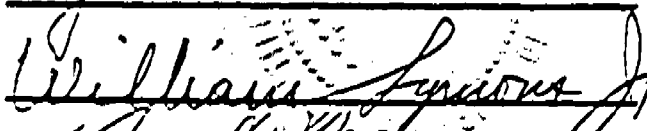
Dated at San Francisco, California, this 24th day of OCTOBER, 1967



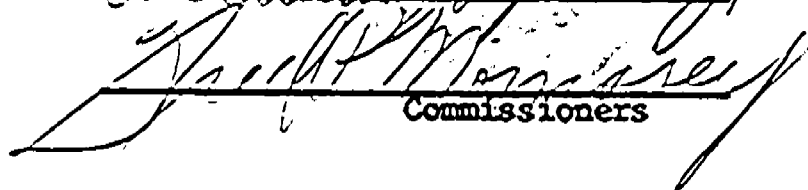
President



New York



Commissioners



HJH

Appendix A

SAN DIEGO VAN & STORAGE COMPANY
(a corporation)

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San Diego Van & Storage Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman for the operation of storage as warehouse floor space, as follows:

| <u>Location</u> | <u>Number of Square Feet Of Floor Space</u> |
|-----------------|---|
| San Diego | 10,000 |

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

Issued by California Public Utilities Commission.

Decision No. 73239, Application No. 49495.