

**ORIGINAL**

Decision No. 73803

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EDWARD H. GOOD dba AMERICAN WAREHOUSE, to sell and KROWN TRANSPORTATION CO., a California corporation, to purchase, certain operative rights as a public warehouse within the City of Los Angeles.

Application No. 49896  
(Filed December 19, 1967)  
(Amended January 31, 1968)

O P I N I O N

By this application, as amended, Edward H. Good, doing business as American Warehouse, hereinafter referred to as seller, seeks authority to sell and Krown Transportation Co., a California corporation, hereinafter referred to as buyer, seeks authority to purchase a prescriptive operating right as a public utility warehouseman in Los Angeles, and buyer seeks authority to issue long-term evidence of indebtedness in the total sum of \$16,000.

Seller conducts business as a public utility warehouseman under a prescriptive operative right acquired pursuant to Decision No. 42667, dated March 29, 1949, in Application No. 30086. Said decision states that the action taken therein (transfer of the operative right) was not a determination of the existence, character or extent of the operative rights authorized to be transferred. The amendment to the application states that buyer intends to use 50,000 square feet of warehouse floor space, and that during the last five years seller has used at least 33,000 square feet of warehouse floor space. The Commission takes official notice of seller's annual reports filed with the Commission for the years 1965 and 1966. Said reports indicate that seller has continuously operated 29,000 square feet of dedicated warehouse floor space at 762 North Spring Street, Los Angeles.

The application contains a copy of the agreement of sale. Said agreement shows that the sum of \$16,000 will be paid by buyer to seller over a period of two years as consideration for the operative right to be transferred. The amendment to the application states that the agreed purchase price will be allocated to goodwill and to the exclusive right to the use of the name "American Warehouse". None of the above purchase price will be allocated to the capitalization of the warehouse operative right to be transferred.

The application states that buyer presently operates as a highway permit carrier and plans to expand its operations into the warehouse field. A financial statement attached to the application shows that buyer has a net worth as of October 31, 1967, of \$118,543.

The application herein was listed on the Commission's Daily Calendar of December 20, 1967. There are no protests.

After consideration, the Commission finds that the proposed transfer of the operating authority would not be adverse to the public interest. The Commission also finds that the money, property or labor to be procured or paid for by issue of the evidence of indebtedness herein authorized is reasonably required for the purposes specified and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary. The application, as amended, should be granted. The order which follows will provide, in the event the transfer is consummated, for the revocation of the prescriptive right presently held by seller and the issue of a certificate in appendix form to buyer. Said certificate will provide for the operation of 29,000 square feet of warehouse floor space.

Krown Transportation Co. is 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 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 herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before June 1, 1968, Edward H. Good, doing business as American Warehouse, may sell and transfer and Krown Transportation Co., a corporation, may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Krown Transportation 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. Krown Transportation Co. 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, Krown Transportation Co. 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 Krown Transportation Co., a corporation, authorizing it to operate 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 heretofore acquired by Edward H. Good, pursuant to Decision No. 42667 in Application No. 30086, which prescriptive right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. 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.

8. Krown Transportation Co., for the purposes specified in this proceeding, may issue an evidence of indebtedness in the principal amount not exceeding \$16,000 in the same form or in substantially the same form as that attached to the application as Exhibit B.

9. The authority herein granted to issue evidence of indebtedness will become effective when Krown Transportation Co. has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of MARCH, 1968.

President

*William W. Bennett*

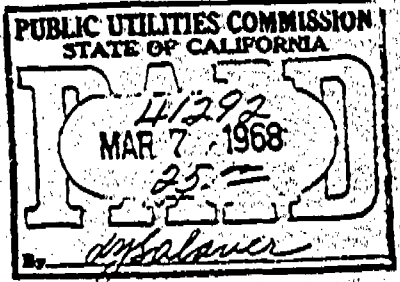
*Morgan*

*William Johnson Jr.*

*Paul P. Morrison*

Commissioners

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



Krown Transportation Co., 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 or warehouse floor space; as follows:

<u>Location</u>	<u>Number of Square Feet Of Floor Space</u>
City of Los Angeles	29,000

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

Issued by California Public Utilities Commission.

Decision No. 73803, Application No. 49896.