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Decision No. 75730

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
STEWART WAREHOUSES, INC., a corpora-
tion, to purchase, and R and W
TRUCKING CO., a corporation, to sell
public utility warehouse operating
authority, pursuant to Section 851,
et seq., and Section 1052 of the
California Public Utilities Code.

Application No. 50998
(Filed April 10, 1969)

O P I N I O N

By this application Stewart Warehouses, Inc., a California corporation, (buyer) seeks authority to purchase and R and W Trucking Co., doing business as Richmond Warehouse, a California corporation, (seller) seeks authority to sell a prescriptive operating right as a public utility warehouseman.

Seller conducts business as a public utility warehouseman pursuant to a prescriptive right set forth by Commission Order in Case No. 6538, dated June 14, 1960. Said right authorizes the operation of 38,000 square feet of floor space at Richmond, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code. The agreed consideration is \$3,500.00

The application states that buyer is engaged in the operation and conduct of a private contract warehouse company, including the rental of warehouse space and rendering incidental warehousing services, including loading, unloading, marking, accounting for and inventorying manufacturers' goods, wares and merchandise. Said operations utilize approximately 75,000 square feet of storage and warehouse floor space at 1015 Chesley Avenue, Richmond, California.

The application further states that the president of the buyer has been in the warehouse business for 30 years during which time he has worked for both public and contract warehouses.

The buyer proposes to operate as a public utility warehouseman at the location where it presently conducts its contract warehouse. It is alleged that said premises are served by rail spurs through the facilities of the Santa Fe and Southern Pacific Railroads. The public will be given the option of using either rail or motor truck service in placing goods and removing goods from said warehouse facility. The facility consists of two buildings built in 1965 and 1968. The buildings are constructed of concrete tilt up walls with concrete floors and are completely sprinklered.

Exhibit B attached to the application is a copy of buyer's balance sheet as of January 1, 1969. It shows current assets of \$35,000, current liabilities of \$30,000 and a net worth of \$5,000.

The application was served in accordance with the Commission's procedural rules and appeared on the Commission's daily calendar of April 11, 1969. No protests have been received.

After consideration, the Commission finds that the proposed transfer of the operating authority 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.

Stewart Warehouses, 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 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 August 1, 1969, R and W Trucking Co. may sell and transfer, and Stewart Warehouses, Inc., 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, purchaser 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. Purchaser 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. Failure to comply with and observe the provisions of General Order No. 61-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser 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 Stewart Warehouses, 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.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Commission Order in Case No. 6538, which certificate 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, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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.

8. Purchaser shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities by including in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

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

Dated at San Francisco, California, this 3rd day of JUNE, 1969.

William J. Murphy
President

Augusta

John P. Monahan
William J. Murphy

Commissioners

Stewart Warehouses, Inc., 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>
Richmond	38,000

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

End of Appendix A

Issued by California Public Utilities Commission.

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