

Decision No. 75820

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
motion into the operations, books,  
records, accounts, and business  
practices of MARJORIE DUARTE, formerly  
doing business as OXNARD VAN & STORAGE,  
JOE F. SILVA, JR., ANTOINETTE K. SILVA,  
and OXNARD VAN AND STORAGE, INC.

Case No. 8845

Andrew J. Marsh, for Marjorie Duarte and  
Oxnard Van and Storage, Inc., respondents.  
William Figg-Hoblyn, Counsel, and E. H. Hiett,  
for the Commission staff.

O P I N I O N

By its order dated September 17, 1968, the Commission instituted an investigation into the operations, books, records, accounts and business practices of Marjorie Duarte, formerly doing business as Oxnard Van and Storage, Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc.

A public hearing was held before Examiner Porter on January 15, 1969, at Oxnard, on which date the matter was submitted subject to briefs being filed. The time for filing of briefs having expired, the matter is now ready for decision.

The Commission staff presented evidence that the Commission in Case No. 6905, dated August 30, 1960, granted a prescriptive operative right as a public utility warehouseman to Marjorie Duarte, doing business as Oxnard Van and Storage.

After this grant, Marjorie Duarte did business through the corporate entity, Oxnard Van and Storage, Inc., without seeking Commission authority to transfer the warehousing right to the corporation.

Joe F. Silva, Jr., and Antoinette K. Silva were also directors of the corporation in addition to Marjorie Duarte, thus they are named as respondents.

The warehouseman right has been suspended by Resolution No. R-150, dated December 13, 1966, but the warehouse continues to operate.

Annual reports for the years 1966 and 1967, required to be filed by March 31 of each year, were not filed until October 1, 1968, and November 18, 1968, respectively.

In December 1968, a member of the Commission staff was denied access to warehouse records.

After consideration the Commission finds that:

1. Marjorie Duarte, Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc., failed to file on a timely basis annual reports for the years 1966 and 1967.

2. Marjorie Duarte, Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc., failed to allow an employee of the Public Utilities Commission to inspect their records.

3. Marjorie Duarte transferred a prescriptive operative right as a public utility warehouseman, granted to one legal entity, to a different legal entity without Commission authorization.

4. Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc., operated as a public utility warehouseman without first obtaining a certificate of public convenience and necessity from the Public Utilities Commission.

The Commission concludes that respondents Marjorie Duarte, Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc., violated Sections 314, 584 and 1051 of the Public Utilities

Code. Marjorie Duarte violated Sections 851 and 1052 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. The prescriptive right of Marjorie Duarte as a public utility warehouseman is hereby revoked.
2. Marjorie Duarte, formerly doing business as Oxnard Van and Storage, Joe F. Silva, Jr., Antoinette K. Silva and Oxnard Van and Storage, Inc., shall cease and desist operating as a public utility warehouseman without proper authority from this Commission.
3. Warehouse Tariff No. 1, Cal. P.U.C. No. 1, of Marjorie Duarte, dba Oxnard Van and Storage, Inc., is canceled.

The Secretary of the Commission is directed to cause personal service of this order to be made upon the respondents. The effective date of this order shall be twenty days after the completion of such service as to each individual and corporation.

Dated at San Francisco, California, this 24th day of JUNE, 1969.

William Sproul J.  
President

August  
Michael P. Morrissey  
Michael  
T. M. ...  
Commissioners