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Decision No. 76867

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of
H & L TRANSPORT, INC., a corporation,
for ex parte consideration and order
authorizing the transfer of a certificate
of public convenience and necessity to
operate the business of a Warehouseman
in Goshen, Tulare County, California to
CARGILL OF CALIFORNIA, INC., a
corporation.

Application No. 51630
(Filed January 19, 1970)

O P I N I O N

H & L Transport, Inc. requests authority to transfer and Cargill of California, Inc. requests authority to acquire a certificate of public convenience and necessity authorizing operations as a public utility warehouseman in Goshen, Tulare County, California.

The certificate was granted by Decision No. 71891, dated January 24, 1967, in Application No. 48834. By Decision No. 75824, dated June 24, 1969, in Application No. 51022, H & L Transport, Inc. was authorized to lease its warehouse facilities to Cargill of California, Inc. and concurrent with the consummation of the lease arrangement the certificate was suspended until August 1, 1970.

Applicants wish to continue the lease arrangement but wish to transfer the certificate without consideration. As of May 31, 1969, Cargill of California, Inc. indicated a net worth in the amount of \$940,301.

After consideration the Commission finds the proposed transfer 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 certificate presently held by H & L Transport, Inc., and the issuance of a certificate in appendix form to Cargill of California, Inc.

Cargill of California, 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, these 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1970, H & L Transport, Inc., a corporation, may transfer, and Cargill of California, Inc., a corporation, may acquire the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Cargill of California, Inc., shall notify the Commission, in writing, of the fact and within said period shall file with the Commission a true copy of any instrument of transfer which may be executed to effect said transfer.

3. Cargill of California, 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 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.

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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 transferor 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 Cargill of California, 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 prescriptive operative right as a public utility warehouseman that Cargill of California, Inc., was found to possess in Case No. 6841, dated August 16, 1960, which prescriptive right is revoked concurrently with the effective date of the tariff filings required by paragraph 3 hereof, and shall supersede the certificate of public convenience and necessity granted to H & L Transport, Inc., by Decision No. 71891, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. Purchaser is placed on notice that, if it accepts such certificate, it will be required, among other things, to file annual reports of its operations.

8. The provisions of ordering paragraph 1 of Decision No. 75824 shall remain in effect.

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

Dated at San Francisco, California, this 3rd
day of MARCH, 1970.

William S. Lyons, Jr.
President
August
William
John
James L. Stinson
Commissioners

Cargill of California, Inc., a corporation, by authority of the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code as follows:

<u>Location</u>	<u>Area or Capacity</u>
Goshen (Tulare County)	3400 tons bulk storage
Dixon	60,625 square feet, plus 2,000 tons bulk storage capacity
West Sacramento and vicinity	886,506 bushel capacity

(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.

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