

ORIGINAL

Decision No. 77284

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 ALMA MAE MARSH (now known as ALMA GEE) )  
 doing business as FELIX MARSH TRANSFER )  
 AND STORAGE for authority to transfer )  
 her warehouse prescriptive right to )  
 FELIX MARSH TRANSFER AND STORAGE, )  
 INCORPORATED, a California corporation; )  
 AND in the Matter of the Application )  
 of FELIX MARSH TRANSFER AND STORAGE, )  
 INCORPORATED for authority to issue )  
 stock in the total amount of \$5,000.00; )  
 AND in the Matter of the Application )  
 of MITCHELL SILLIMAN COMPANY for )  
 authority to purchase or acquire any )  
 part of the capital stock of FELIX )  
 MARSH TRANSFER AND STORAGE, )  
 INCORPORATED. )

Application No. 51835  
 Filed April 20, 1970  
 and Amendment  
 Filed May 8, 1970

O P I N I O N

Alma Mae Marsh (now known as Alma Gee), doing business as Felix Marsh Transfer and Storage, seeks authority to transfer her warehouse prescriptive right to Felix Marsh Transfer and Storage, Incorporated, which corporation requests authority to issue 50 shares of its \$100 par value capital stock. Mitchell Silliman Company seeks authority to purchase and acquire 25-1/2 shares of said stock.

The transferor is engaged in public utility warehouse operations pursuant to the prescriptive right determined by the Commission on July 26, 1960, in Case No. 6672. Said right authorizes the operation at Salinas of 3,000 square feet of storage or warehouse floor space, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.

In this proceeding the transferor contemplates transferring to Felix Marsh Transfer and Storage, Incorporated said prescriptive right, together with related assets pertaining thereto and to operations as a radial highway common carrier, a highway contract carrier and a household goods carrier. The transferee is a California corporation incorporated on or about January 28, 1970. The latter proposes to issue \$5,000 aggregate par value of its capital stock in exchange for said assets, subject to liabilities. A February 1, 1970 balance sheet of the transferor is obtained from Exhibit B, attached to the application, as follows:

<u>Assets</u>	
Current assets	\$3,366
Machinery, automotive and other equipment, less accumulated depreciation	3,630
Deposits	<u>530</u>
Total	<u>\$7,526</u>

<u>Liabilities</u>	
Current liabilities	\$2,754
Other liabilities	284
Proprietary capital	<u>4,488</u>
Total	<u>\$7,526</u>

Mitchell Silliman Company is a California corporation operating as a warehouseman of farm commodities and general merchandise in the northern section of the Salinas Valley. For the year 1969, it reports warehouse public utility operating revenues, nonutility operating revenues and net income amounting to \$501,491,

\$65,147 and \$48,171, respectively. This corporation desires to acquire 51% of the capital stock of Felix Marsh Transfer and Storage, Incorporated.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application, as amended, should be granted. A public hearing is not necessary. The authorization herein granted shall not be construed as a finding of the value of the operative right and properties herein authorized to be transferred, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the prescriptive operative right presently held by Alma Mae Marsh (now known as Alma Gee), and the issuance of a certificate in appendix form to Felix Marsh Transfer and Storage, Incorporated.

Felix Marsh Transfer and Storage, Incorporated 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.

So far as the rights are concerned the authorization herein granted is for the transfer of the warehouse prescriptive right only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

O R D E R

IT IS ORDERED that:

1. On or before September 30, 1970, Alma Mae Marsh (now known as Alma Gee), doing business as Felix Marsh Transfer and Storage, may sell and transfer, and Felix Marsh Transfer and Storage, Incorporated may purchase and acquire, the prescriptive operative right and property referred to in this proceeding.
2. Felix Marsh Transfer and Storage, Incorporated, on or before September 30, 1970, for the purpose specified in this proceeding, may issue and sell not exceeding 50 shares of its \$100 par value capital stock, of which Mitchell Silliman Company may purchase and acquire not exceeding 25-1/2 shares.
3. Felix Marsh Transfer and Storage, Incorporated shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Felix Marsh Transfer and Storage, Incorporated 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.

5. Felix Marsh Transfer and Storage, Incorporated 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.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Felix Marsh Transfer and Storage, Incorporated, 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.

7. The certificate of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the prescriptive operative right found to exist in Case No. 6672, dated July 26, 1960, which operative right is revoked concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

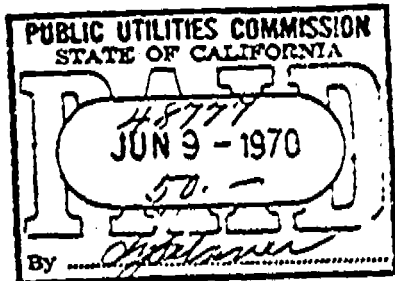
8. Within thirty days after the transfer herein authorized is consummated, Felix Marsh Transfer and Storage, Incorporated shall file a written acceptance of the certificate herein granted. Felix Marsh Transfer and Storage, Incorporated is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its operations.

9. This order shall become effective when Felix Marsh Transfer and Storage, Incorporated has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California,  
this 7th day of JUNE, 1970.

William S. ...  
President

...  
...  
Commissioners



Commissioner J. P. Valentin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

## FELIX MARSH TRANSFER AND STORAGE, INCORPORATED

Felix Marsh Transfer and Storage, Incorporated, 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 as defined in Section 239(b) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Salinas	3,000

(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.

Decision No. 77284, Application No. 51335.