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Decision No. 78049

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of A. R. PEARSON TRUCK CO., INC.,
a corporation, to sell, and of
KEENEYCO, INC., a corporation,
to purchase, a prescriptive
operative right as a public
warehouseman in the City of
Vernon, pursuant to Sections 851-
853 of the California Public
Utilities Code.

Application No. 52229
(Filed October 5, 1970;
Amended November 5, 1970)

O P I N I O N

A. R. Pearson Truck Co., Inc. requests authority to sell and transfer, and Keeneyco, Inc. requests authority to purchase and acquire, a prescriptive right authorizing operations as a public utility warehouseman in 5000 square feet of floor space in the City of Vernon. Applicant purchaser also requests authority to establish rates, rules and regulations different than those presently being applied by applicant seller.

The right was set forth in a Commission order instituting investigation dated July 26, 1960, in Case No. 6673. The agreed cash consideration is \$7,500.

Applicant purchaser has conducted private operations as a warehouseman in two locations in the City of Vernon; one consists of 11,000 square feet of space and the other consists of 10,000 square feet of space. As of June 30, 1970, applicant indicated a net worth in the amount of \$12,721.

Applicant purchaser proposes to establish a new warehouse tariff rather than adopt existing tariff of applicant seller. In some respects the proposed rates would be higher than those presently being charged by applicant seller and in other instances

A. 52229 hjh

the proposed rates are lower. The Commission staff has reviewed the proposed rates and found that they are the same as or comparable to the rates of other warehousemen located in the general area where applicant purchaser's warehouse facility is located.

Notice was served upon the patrons of applicant seller and upon the Los Angeles Warehousemen's Association. No protest has been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the increases in the proposed rates, rules and regulations are justified. A public hearing is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the right herein authorized to be transferred.

Keeneyco, 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 order which follows will provide for, in the event the transfer is consummated, the revocation of the prescriptive right presently held by A. R. Pearson Truck Co., Inc. and the issuance of a certificate in appendix form to Keeneyco, Inc.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1971, A. R. Pearson Truck Co., Inc. may sell and transfer, and Keeneyco, Inc. may purchase and acquire, the operative rights referred to in the application, as amended, upon the condition that applicants bear the expense of moving the goods of customers to the facilities of applicant purchaser or to a warehouse of the customers' choice in the area of Vernon.
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 may file and establish the rates, rules and regulations as set forth in Appendix A of Exhibit B attached to the application, as amended. 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

A. 52229 bjh

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 Keeneyco, 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 right set forth in a Commission order dated July 26, 1960, in Case No. 6673, which right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, 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

A. 52229, hjh

herein granted, it will be required, among other things, to file annual reports of its operations.

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

Dated at San Francisco, California, this 24th day of DECEMBER, 1970.

Chairman

Argenter

William J. Quinn

John M. ...

James L. Sturgeon

Commissioners

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

Keeneyco, Inc., 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 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>
Vernon	5000

(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.

Decision No. 78049, Application No. 52229.