

Decision No. 78112

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of:

(a) SWIFT TRANSPORTATION COMPANY,
a corporation, to purchase, and
CHARLES WAREHOUSE CO., INC., a
corporation, to sell public utility
warehouse operating authority,
pursuant to Section 851, et seq.,
and Section 1052 of the California
Public Utilities Code; and upon
approval thereof,

(b) To operate as a public ware-
houseman in Gardena, California;
and

(c) For authorization to cease
operations at Los Angeles,
California.

Application No. 52137
(Filed August 14, 1970)

O P I N I O N

Charles Warehouse Co., Inc., hereinafter called "Charles", has applied herein to sell its Los Angeles public utility warehouse operating authority to Swift Transportation Company, hereinafter called "Swift", for \$15,000. Swift has applied to move the warehouse operation to Gardena and to close the facility in Los Angeles. Charles' authority was granted by Decision No. 38458, dated December 10, 1945, in Application No. 27045, and acquired by Decision No. 41132, dated January 19, 1948, in Application No. 28973.

It is alleged that the officers of Swift all have a minimum of 20 years' experience in transportation and handling freight. Swift owns a 15,000 square foot metallic building with 9,000 square feet of storage space, located at 14719 South San Pedro

Street, Gardena, California. Those who have goods stored in the Charles warehouse have no objection to the goods being transferred to the Gardena warehouse at Charles' expense. Swift will charge the rates adopted by Charles as included in California Warehouse Tariff Bureau, Warehouse Tariff No. 28-A, Cal. P.U.C. 193, Jack L. Dawson, Agent. The 1970 balance sheets and operating statements for both applicants are attached to the application. The Swift operating statement portrays a large corporation with a gross income which exceeds \$150,000 a month. A copy of the application was mailed to the Los Angeles Warehousemen's Association and to the only warehouse already operating in Gardena and no protests have been filed. A public hearing is not necessary.

After consideration the Commission finds that:

1. Public convenience and necessity no longer require regular warehouse facilities at the location of the Charles warehouse in Los Angeles.
2. Public convenience and necessity require additional warehouse facilities in Gardena.
3. Applicant Swift possesses the experience, equipment, personnel and financial resources to initiate and maintain the proposed service.
4. Applicant Swift should be authorized to publish and file the rates contained in California Warehouse Tariff Bureau, Warehouse Tariff No. 28-A, Cal. P.U.C. 193, Jack L. Dawson, Agent.
5. This transfer will not be adverse to the public interest.
6. A new certificate will be granted to Swift and the Charles operating authority revoked.

Based on the foregoing findings of fact, the Commission concludes that:

1. Applicant Charles should be authorized to sell its warehouse operating authority to Swift and to close its Los Angeles warehouse.

2. The application should be granted.

Swift Transportation Company 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.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1971, Charles Warehouse Co., Inc. may sell and transfer, and Swift Transportation Company may purchase and acquire, the operative rights 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 Swift Transportation Company, 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 Decision No. 38458 and acquired by Charles Warehouse Co., Inc., pursuant to Decision No. 41132, 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 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 herein granted, it will be required, among other things, to file annual reports of its operations.

8. Applicant seller shall, at the direction of the owner of any property in storage at the Los Angeles location, transport such property to the new facility or any available public utility warehouse in the vicinity of the Los Angeles location at the expense

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of applicant seller and at no expense or risk to the owner of the property transported.

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

Dated at San Francisco, California, this 22nd day of DECEMBER, 1970.

[Signature]
Chairman
[Signature]
William S. [Signature]
[Signature]
James L. [Signature]
Commissioners

Swift Transportation Company, 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>
Gardena	5,000

(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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