

Decision No. 78373

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of Ben Cassinerio, Sr., and Ben
 Cassinerio, Jr., doing business
 as GRAY DRAYAGE CO., a copartner-
 ship, as Transferor, to sell and
 transfer its certificate of pub-
 lic convenience and necessity as
 a common carrier, to CENTRAL
 WAREHOUSE & DRAYAGE CO., INC., a
 corporation, as Transferee.

Application No. 52365
 (Filed December 22, 1970)

O P I N I O N

Ben Cassinerio, Sr., and Ben Cassinerio, Jr., doing business as Gray Drayage Co., request authority to sell and transfer, and Central Warehouse & Drayage Co., Inc., requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier and other assets.

The certificate was granted by Decision No. 54650, dated March 12, 1957, in Application No. 35938, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547, and authorizes transportation of general commodities between San Francisco, on the one hand, and Richmond, San Pablo, El Cerrito, Albany, Berkeley, Piedmont, Oakland, San Leandro, San Lorenzo and Hayward, on the other hand. The cash consideration of \$114,000 represents the book value of the assets of Gray Drayage Co. as of December 31, 1970.

After consideration the Commission finds that 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 Ben Cassinerio, Sr., and Ben Cassinerio, Jr., doing business as Gray Drayage Co., and the issuance of a certificate in appendix form to Central Warehouse & Drayage Co., Inc., a corporation.

Central Warehouse & Drayage Co., 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 over a particular route. 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 September 1, 1971, Ben Cassinerio, Sr., and Ben Cassinerio, Jr., doing business as Gray Drayage Co., may sell and transfer, and Central Warehouse & Drayage Co., Inc., may purchase and acquire, the operative rights and property 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 common carrier 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 five days after the effective date of this order on not less than five 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. 80-A. Failure to comply with and observe the provisions of General Order No. 80-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 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 sellers for the period commencing with the first day of the current 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 Central Warehouse & Drayage Co., Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly 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. 54650, and amended by Decision No. 74082, 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 comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-F.

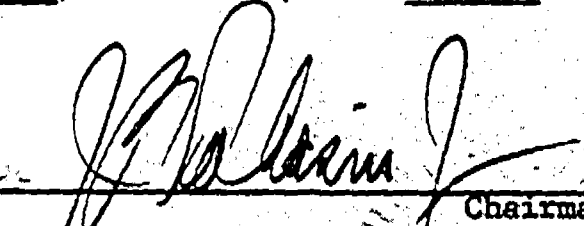
8. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

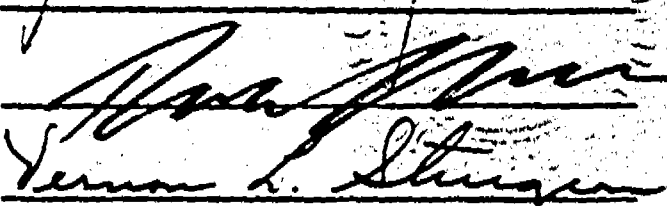
9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport

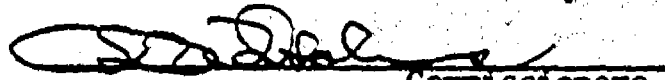
collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 2nd day of MARCH, 1971.


Chairman


Vernon L. Sturgeon


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Central Warehouse & Drayage Co., Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities between San Francisco, on the one hand, and Richmond, San Pablo, El Cerrito, Albany, Berkeley, Piedmont, Oakland, San Leandro, San Lorenzo and Hayward, on the other hand. This authority does not include the right to render service to, from or between intermediate points.

Applicant shall not transport any shipments of:

1. Uncrated, used household goods, personal effects and office, store and institution furniture, fixtures and equipment.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

Issued by the California Public Utilities Commission.

Decision No. 78373, Application No. 52365.

6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Trailer coaches or campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

Issued by the California Public Utilities Commission.

Decision No. 78373, Application No. 52365.