

Decision No. 79809

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)

of)

PALOMA E. (MARIS) MULLOY ..)

doing business as Maris Van &)
Storage, a sole proprietorship,)
to transfer to, and of Maris)
Van & Storage, a corporation,)
to acquire, a public utility)
warehouse certificate and)
operation at Monterey,)
California)

and)

MARIS VAN & STORAGE, a)
corporation,)

to issue shares of its capital)
stock.)

Application No. 53147
Filed February 14, 1972

O P I N I O N

Paloma E. Mulloy and First National Bank & Trust Company of Fremont, Nebraska, Executor of the Estate of John M. Mulloy, Deceased, seek an order of the Commission authorizing them to transfer to Maris Van & Storage, a corporation, the public utility warehouseman certificate of public convenience and necessity granted by Decision No. 64058, dated August 7, 1962, in Application No. 44374, together with related assets, and the latter seeks authority to issue 3,000 shares of its capital stock without par value.

By said Decision No. 64058, the Commission granted to Paloma E. Mulloy and John M. Mulloy a certificate of public convenience and necessity authorizing them to conduct public utility warehouseman operations at Monterey. For the year 1971, the reported gross income and net profit from the operations, conducted under the name of Maris Van & Storage, amounted to \$191,155 and \$16,832, respectively. Said warehouseman operations comprise a very small portion of the total operations of the enterprise. As of December 31, 1971, the reported total assets of said enterprise amounted to \$83,475 offset by current liabilities and net worth amounting to \$16,642 and \$66,833, respectively.

John M. Mulloy died on March 23, 1971. His wife and the executor of his estate propose to transfer said public utility warehouseman certificate of public convenience and necessity and related assets to Maris Van & Storage, a California corporation incorporated on or about March 30, 1971. The latter proposes to issue 3,000 shares of its no par value capital stock in exchange for the assets and liabilities of the enterprise having a reported net worth of \$66,833 as of December 31, 1971. The corporation intends to issue 2,820 of said 3,000 shares to Paloma E. Mulloy.

After consideration the Commission finds that:

1. The proposed transfer 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 the 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 should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the properties 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 certificate granted to Paloma E. (Maris) Mulloy and John M. Mulloy and the issuance of a certificate in appendix form to Maris Van & Storage, a corporation.

Maris Van & Storage, a corporation, 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 June 30, 1972, Paloma E. Mulloy and First National Bank & Trust Company of Fremont, Nebraska, Executor of the Estate of John M. Mulloy, Deceased, may sell and transfer, and Maris Van & Storage, a corporation, may purchase and acquire, the public utility warehouseman certificate of public convenience and necessity and related assets referred to in the application.

2. Maris Van & Storage, a corporation, on or after the effective date hereof and on or before June 30, 1972, for the purpose specified in the application, may issue not exceeding 3,000 shares of its no par value capital stock, of which it shall issue not less than 2,820 shares to Paloma E. Mulloy.

3. Maris Van & Storage, a corporation, shall file with the Commission the report 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, Maris Van & Storage, a corporation, 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. Maris Van & Storage, a corporation, 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 or 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.

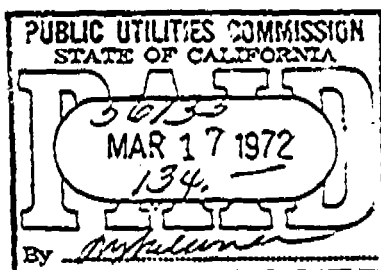
6. In the event the transfer authorized by Ordering Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Maris Van & Storage, a corporation, authorizing it to operate as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in Ordering Paragraph No. 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 64058, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Ordering Paragraph No. 5 hereof.

8. Within thirty days after the transfer herein authorized is consummated, Maris Van & Storage, a corporation, shall file a written acceptance of the certificate herein granted. Maris Van & Storage, a corporation, 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 Maris Van & Storage, a corporation, has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$134.

Dated at San Francisco, California, this 14th day of MARCH 1, 1972.



[Signature]
Chairman
William J. [Signature]
[Signature]
[Signature]
Commissioners

Maris Van & Storage, 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>
Monterey	14,700

(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. 79809, Application No. 53147.