

ORIGINAL

Decision No. 80889

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 BOONE WAREHOUSES, INC., a corpora- )  
 tion, to transfer to, and of RICHMOND )  
 TRANSFER AND STORAGE COMPANY, a )  
 corporation, to acquire, a public )  
 utility warehouse prescriptive right )  
 and operation at Sacramento, )  
 California. )

Application No. 53647  
 (Filed October 17, 1972)

O P I N I O N

Boone Warehouses, Inc. (Boone) requests authority to transfer and Richmond Transfer and Storage Company (Richmond) requests authority to acquire a prescriptive operative right as a public utility warehouseman in 60,000 square feet of floor space in Sacramento, California.

Since September 1, 1952, Boone has been operating pursuant to authority conferred by Section 1052 of the Public Utilities Code and since that date Boone's rates, rules, and regulations applying to the service have been those set forth in Warehouse Tariff No. 52, PUC No. 224 of the California Warehouse Tariff Bureau, Jack L. Dawson, Agent. Ralph W. Johnson and William F. Bottoms each own fifty percent of the stock in both the transferor and transferee corporations. The two corporations hold licenses and permits authorizing them to perform various transportation, warehousing, and transportation related activities. The proposed transfer will simplify the internal organization of the activities engaged in by the entities owned by Johnson and Bottoms. Applicants allege that the transfer will be in the public interest and will result in increased efficiency in applicants' operations.

A copy of the application was served upon the California 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 concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the operative right presently held by Boone Warehouses, Inc. and the issuance of a certificate in appendix form to Richmond Transfer and Storage Company.

Richmond Transfer and Storage 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 June 30, 1973, Boone Warehouses, Inc. may transfer, and Richmond Transfer and Storage Company may acquire, the operative rights and property referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, transferee 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. Transferee 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, transferee 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 transferor 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 Richmond Transfer and Storage 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 prescriptive operative right possessed by Boone Warehouses, Inc., which operative 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, transferee shall file a written acceptance of the certificate herein granted. Transferee 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.

7 8. Transferee shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

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

Dated at San Francisco, California, this 19<sup>th</sup> day of DECEMBER, 1972.

Vernon L. Sturgeon  
President  
William Lyons

John Van  
Commissioners

Robert  
McLean Jr, Chairman

Richmond Transfer and Storage 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>
Sacramento	60,000

(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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