

ORIGINAL

Decision No. 81613

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applications )  
of KROWN TRANSPORTATION Co., a )  
California corporation, dba )  
AMERICAN WAREHOUSE, to sell and )  
WEBSTER DELIVERY SERVICE, INC., )  
a California corporation, to )  
purchase, certain operative )  
rights as a public warehouse )  
within the City of Los Angeles. )

Application No. 54015  
(Filed May 4, 1973)  
(Amendment Filed May 30, 1973)

O P I N I O N

Krown Transportation Co. (Krown) owns and operates American Warehouse (American) under a certificate of public convenience and necessity granted by the Commission by Decision No. 73803 dated March 5, 1968 in Application No. 49896, and operates storage facilities as a public warehouse at 762 North Spring Street, Los Angeles, California. It desires to withdraw from the ownership of a public warehouse and sell and transfer its operative rights to Webster Delivery Service, Inc. (transferee) which operates as a highway common carrier. As of December 31, 1972 the transferee's current assets amounted to \$65,927 and its current liabilities were \$67,449.

The transferee deems it to be in the best interest of its stockholder to expand its business into the public warehousing field and desires to purchase the warehouse rights of Krown.

Applicants allege that public convenience and necessity will be served by the proposed transfer of the warehouse operative rights of Krown inasmuch as the present storage accounts of American will continue to be serviced without interruption; that the storage facilities will continue to be made available to the general public; and that American participates in California Warehouse Tariff Bureau Warehouse Tariff No. 28A and exceptions thereto.

and Tariff No. 29A and if this application is granted the transferee will adopt the above tariffs as its own.

The parties further allege that the agreed purchase price (Exhibit B on the application) is twenty thousand dollars (\$20,000) which is for the goodwill and exclusive rights to the use of the name "American Warehouse"; and that the total sum of twenty thousand dollars (\$20,000) shall be paid: (1) ten thousand dollars (\$10,000) down; and (2) ten installments of one thousand dollars (\$1,000) each, each monthly payment to include 7-1/2 percent interest, with the first payment due thirty (30) days after this decision becomes effective. The parties further allege that no portion of the above purchase price is to be allocated to the capitalization of the warehouse operative right to be transferred.

The parties further allege that Krown has an operative right authorizing the operation of 29,000 square feet of warehouse floor space in the city of Los Angeles; that during the past five years American has used at least 29,000 square feet; that Webster intends to use 29,000 square feet of warehouse floor space as authorized in the above operative right; and that Webster will operate the warehouse at 886 North Mission Road, in the city of Los Angeles.

#### Findings

1. The proposed transfer will not be adverse to the public interest.
2. The application shows with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.
3. A public hearing is not necessary.

Conclusion

The Commission concludes that the application, as amended, should be granted.

Webster Delivery Service, Inc., is 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 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 authorization herein granted shall not be construed as a finding of the value of the rights herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before November 1, 1973, Krown Transportation Co. may sell and transfer and Webster Delivery Service, Inc., may purchase and acquire the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Webster Delivery Service, Inc., 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. Webster Delivery Service, Inc., 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Webster Delivery Service, Inc., 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 Webster Delivery Service, Inc., 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.

6. The certificate of public convenience and necessity granted by Decision No. 73803 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Within thirty days after the effective date hereof, Webster Delivery Service, Inc., shall file a written acceptance of the certificate herein granted. It 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. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the public utility warehouse operations authorized by this decision.

8. Seller shall, at the direction of the owner of any property in storage at the present location, transport such property to the new facility of purchaser or any available public utility warehouse in the vicinity of seller's present location at the expense of seller and at no expense or risk to the owner of the property transported.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 24th day of JULY, 1973.

James L. Stearns  
President  
[Signature]  
[Signature]  
Commissioners

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

Webster Delivery Service, Inc., 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>
Los Angeles	29,000

(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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