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ORIGINAL

Decision No. 81880

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of COAST DRAYAGE, a corporation, doing business as COAST LINES, to transfer a certificate of public convenience and necessity to operate as a public warehouseman, to JAMES LENNON, an individual, doing business under the fictitious name of EAST BAY DRAYAGE & WAREHOUSE CO., and of JAMES LENNON, an individual, doing business under the fictitious name of EAST BAY DRAYAGE & WAREHOUSE CO., to acquire said certificate of public convenience and necessity.

Application No. 54177
(Filed July 16, 1973)

O P I N I O N

Applicant Coast Drayage, a corporation doing business as Coast Lines (transferor), requests authority pursuant to a written agreement of sale to transfer its certificate of public convenience and necessity as a warehouseman issued in Decision No. 80435 dated August 31, 1972 to joint applicant James Lennon, an individual doing business as East Bay Drayage & Warehouse Co. (transferee), for the sum of \$7,500 cash upon consummation of the transaction. The written agreement also provides that transferee will assume a lease of certain real property situated at 3rd and Addison Streets in Berkeley, presumably for use as a warehouse and the lease of a fork-lift truck.

The subject certificate authorizes the operation as a public warehouseman as defined in Section 239(b) of the Public Utilities Code for the operation of storage warehouse space in the amount of 30,000 square feet of floor space located in the city of Berkeley.

Transferor represents that it has determined to discontinue operations as a public warehouseman and to liquidate the assets of the corporation. As of December 31, 1972 transferor had a net worth of \$349,513. Transferor asserts that its warehouse operation is viable and active.

Transferee alleges that he has been employed by transferor and an affiliated company for a substantial period of time during which he gained considerable knowledge and experience in warehouse operations. Transferee's net worth as of July 13, 1973 is shown to be \$141,247.75. Transferee will assume no liabilities of Coast Drayage.

The subject sales agreement shows that transferee has purchased the goodwill of East Bay Drayage & Warehouse Co. for \$5,000. Transferee states that he presently has an application on file with the Commission for a contract carrier permit.

The application was noticed in the Commission's Daily Calendar of July 19, 1973. The certificate of service shows that the application was served on the California Warehousemen's Association and the California Trucking Association. No protests were received to the granting of the application. A public hearing is not necessary.

After consideration the Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment and that the proposed transfer would not be adverse to the public interest. We conclude that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Coast Drayage, a corporation doing business as Coast Lines, and the issuance of a certificate in appendix form to James Lennon, an individual doing business as East Bay Drayage & Warehouse Co.

James Lennon 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 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 January 1, 1974, Coast Drayage, a corporation doing business as Coast Lines, may sell and transfer the operative rights and property referred to in the application to James Lennon, an individual, doing business as East Bay Drayage & Warehouse Co.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that he has adopted or established, as his own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 61-Series 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 transfer the 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 year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to James Lennon, an individual doing business as East Bay Drayage & Warehouse Co., authorizing him 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 80435 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall maintain his accounting records in conformance with any applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of his

operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 14th
day of SEPTEMBER, 1973.

Vernon L. Sturgeon
President
William J. Jones
William J. Jones
William J. Jones
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

JAMES LENNON, AN INDIVIDUAL,
DOING BUSINESS AS EAST BAY
DRAYAGE & WAREHOUSE CO.

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James Lennon, an individual doing business as East Bay Drayage & Warehouse Co., 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>
Berkeley	30,000

(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.

Decision No. 81880, Application No. 54177.