

Decision No. 82172**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
GIBRALTAR WAREHOUSES, a corporation,
to transfer and of LAWLOR MOTOR
EXPRESS, INC., a corporation, to
acquire a public utility warehouse-
man's certificate of public convenience
and necessity for the City and County
of San Francisco.

Application No. 54379
(Filed October 11, 1973)

O P I N I O N

Gibraltar Warehouses, a corporation, requests authority to sell and transfer, and Lawlor Motor Express, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a public utility warehouseman in the city and county of San Francisco.

The certificate was granted by Decision No. 79959 dated April 18, 1972 in Application No. 53201, which also authorized public utility warehouse operations in Union City. The Union City certificate is not included in the proposed transfer. The agreed cash consideration is \$3,000.

Applicant purchaser is presently operating as a permitted carrier, and as of June 30, 1973 indicated a net worth in the amount of \$170,103.

It is alleged that applicant seller has operated for many years in San Francisco; that recently, applicant seller obtained additional authority to operate in Union City and plans to transfer all of its operations to Union City; that applicant buyer has engaged in limited private warehouse operations from time to time in the past and is in a position to offer the public an efficient and useful public warehousing service; and that the proposed transfer

would be in the public interest. A copy of the application was served upon the California Warehouseman's Tariff Bureau. 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. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. 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 Gibraltar Warehouses and the issuance of certificates in appendix form to Gibraltar Warehouses, and Lawlor Motor Express, Inc.

Applicants are 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 July 1, 1974, Gibraltar Warehouses may sell and transfer the operative rights referred to in the application to Lawlor Motor Express, Inc.
2. Within thirty days after the transfer, applicants shall file with the Commission written acceptances of the certificates and the purchaser shall file with the Commission 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 it has adopted or established, as its own, the 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 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. 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, certificates of public convenience and necessity are granted to Gibraltar Warehouses and Lawlor Motor Express, Inc., corporations, authorizing them to operate as public utility warehousemen, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space set forth in Appendices A and B, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 79959 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

A. 54379 am

6. Applicants are placed on notice that, if they accept the certificates, they will be required, among other things, to file annual reports of their operations.

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

Dated at San Francisco, California, this 27th
day of NOVEMBER, 1973.

James L. Stinson
President
William J. Lyons
H. H. Hain
Michael J. ...
...
Commissioners

Gibraltar Warehouses, 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> |
|-----------------|---|
| Union City | : 150,000 |

(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. 82172, Application No. 54379.

Lawlor Motor Express, Inc., 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:

LocationNumber of Square
Feet of Floor Space

City and County of
San Francisco

424,000

(The floor space shown is exclusive
of the expansion permissible under
Section 1051 of the Public Utilities
Code.)

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 82172, Application No. 54379.