

Decision No. 83465

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
J. SCOTT CLARE, Executor Under the
Will of JEANETTE S. CLARE, to
Transfer Warehouse Operative Right
at Butte City and Vicinity,
California, to the ESTATE of
JEANETTE S. CLARE (Butte City Whse. Co.).

Application No. 55040
(Filed July 11, 1974)

O P I N I O N

J. Scott Clare, as the Executor of the Estate of Jeanette S. Clare, requests that an operative right for operations as a public utility warehouseman be transferred to the estate as an asset thereof.

The operative right is prescriptive in nature and, as set forth in Case No. 6642, authorizes operations in 68,000 square feet of space in Butte City.

The operative right was originally held by Jay S. Clare, who died October 25, 1967. It passed to Jeanette S. Clare as the sole beneficiary under her husband's will; however, no application had ever been filed with the Commission requesting its transfer.

It is alleged that Jeanette S. Clare died on December 11, 1972 and that J. Scott Clare was appointed as Executor of her estate by the Superior Court in and for the county of Colusa on January 8, 1973.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

The transfer will be accomplished by revoking the original operative right and issuing a new certificate in appendix form to J. Scott Clare as Executor of the estate of Jeanette S. Clare.

We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. ✓

Applicant 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. A certificate of public convenience and necessity is granted to J. Scott Clare, as Executor of the estate of Jeanette S. Clare, 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.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he will be required, among other things, to file annual reports of his operations.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less

than ten day's notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service authorized.

- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-Series.

3. Applicant 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 service in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

4. The prescriptive operative right set forth in Commission order dated July 26, 1960 in Case No. 6642 is revoked effective concurrently with the effective date of the tariff filings required by 2(b).

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

Dated at Los Angeles, California, this 17th
day of SEPTEMBER, 1974.

Verne L. Stinson
President
William J. Brown
John H. Brown
John H. Brown
John H. Brown
Commissioners

J. Scott Clare, as Executor of the Estate of Jeannette S. Clare, 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>
Butte City and vicinity	68,000

(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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