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ORIGINAL

Decision No. 83657

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOHN L. BANKS and WILLIE H. BAKER,)
partners doing business as SUR-T)
WAREHOUSE CO., for authorization to)
transfer, and of WILLIE H. BAKER,)
an individual, to acquire, public)
utility warehouse operative rights)
and properties at San Jose,)
California.)

Application No. 55152
(Filed September 5, 1974)

O P I N I O N

John L. Banks and Willie H. Baker, doing business as Sur-T Warehouse Company, request authority to transfer the operative right for operations as a public utility warehouseman to Willie H. Baker.

Transferors are engaged in the business of a public utility warehouseman in the storage of merchandise at San Jose, California. Transferors operate in 60,000 square feet of warehouse space. As consideration for the proposed transfer, transferee will assume the assets and liabilities of transferors as shown in Exhibit A attached to the application.

Transferor John L. Banks has been in poor health and desires to dispose of his interest in the public warehouse properties and operations at San Jose. Transferee has had many years of experience in the operation of public warehouses, storing and handling merchandise. Transferee proposes to use operating personnel presently used by transferors in the operation of the business.

There were no protests.

After consideration the Commission finds that:

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

Based on the foregoing findings the Commission concludes that the application should be granted to the extent and under the conditions as set forth in the ensuing order.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred so far as the operating rights are concerned, nor as authorization for issuance of stock exceeding the net worth of the business on the date of transfer.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the prescriptive operative right presently held by John L. Banks and Willie H. Baker and the issuance of a certificate in appendix form to Willie H. Baker.

Willie H. Baker 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 cancelled 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 February 3, 1975, John L. Banks and Willie H. Baker may transfer to Willie H. Baker the referred to prescriptive operative right to operate as a public utility warehouseman.

2. On or before the end of the third month after the transfer, 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 transferee for the period commencing with the first day of the current year to and including the effective date of the transfer.

3. Within thirty days after the transfer transferee shall notify the Commission, in writing, of that fact and within said period shall file with the Commission the instrument of transfer which may be executed to effect said transfer.

4. Transferee 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.

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 4, a certificate of public convenience and necessity is granted to Willie H. Baker, 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 space set forth in Appendix A, attached hereto and made a part hereof.

6. The prescriptive operative right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

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

Dated at San Francisco, California, this 29th
day of OCTOBER, 1974.

Vernon L. Sturgeon
President
William J. Quinn
John H. [unclear]
[unclear]
Robert E. McFarland
Commissioners

Willie H. Baker, 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>
San Jose	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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