

Decision No. 83718

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PEERLESS TRUCKING COMPANY, a)
California corporation, for an)
order authorizing the transfer of)
the public warehouse license from)
CONSOLIDATED FREIGHTWAYS)
CORPORATION OF DELAWARE.)

Application No. 55034
(Filed July 12, 1974)

O P I N I O N

Peerless Trucking Company (applicant), a California corporation, requests authority for the transfer to it of a public utility warehouseman certificate of public convenience and necessity from Consolidated Freightways Corporation of Delaware (transferor).

Applicant presently holds a public utility warehouseman certificate of public convenience and necessity granted in Decision No. 80963 dated January 16, 1973 in Application No. 53703. Applicant is also the holder of a highway common carrier certificate and highway carrier permits. The public warehouse presently operated by applicant is located at 1645 Daisy Avenue, Long Beach.

Transferor's public utility warehouseman certificate of public convenience and necessity was granted in Decision No. 79435 dated December 7, 1971 in Application No. 52998. The warehouse operated under this authority is located at 5833 Malt Avenue, City of Commerce. Transferor leases this property from Flammer Mill and Warehouse Co. (lessor), Fullerton.

The proposed transfer contemplates the subleasing of the property at 5833 Malt Avenue, City of Commerce. Authority has been obtained from the lessor for transferor to sublease the property to applicant. A copy of the lease and sublease are attached to the application. The transfer of the warehouseman certificate would be for no consideration.

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 certificates presently held by Consolidated Freightways Corporation of Delaware and Peerless Trucking operations in Long Beach and the issuance of a certificate in appendix form to Peerless Trucking Company, combining the operative rights in Long Beach and the City of Commerce.

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. On or before December 31, 1974, Consolidated Freightways Corporation of Delaware (transferor) may transfer the operative rights referred to in the application to Peerless Trucking Company (applicant).
2. Within thirty days after the transfer the applicant 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. Applicant 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 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 applicant 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 transferor 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 Peerless Trucking Company, a corporation, 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision Nos. 79435 and 80963 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Applicant shall maintain its 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 its 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 13th
day of NOVEMBER, 1974.

Veronica L. Stearns
President
William J. Quinn
Robert E. McFarland
Commissioners

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

Peerless Trucking Company, 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>
City of Commerce	30,000
Long Beach	6,000

(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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