

Decision No. 85436**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HOWARD C. FOSTER, an individual,)
 doing business as FOSTER'S TRANSFER)
 & STORAGE, to transfer a certificate)
 of public convenience and necessity)
 to operate as a public warehouseman)
 to FOSTER VAN LINES, INC. and of)
 said corporation to issue stock.)

Application No. 56173
 (Filed January 6, 1976)

O P I N I O N

Howard C. Foster, doing business as Foster's Transfer & Storage, seeks authority to transfer his prescriptive operative right as a public utility warehouseman, together with related property, to Foster Van Lines, Inc., and the latter seeks authority to issue 1,210 shares of its \$10 par value capital stock.

Howard C. Foster operates as a public utility warehouseman in the cities of Richmond and Vallejo pursuant to the prescriptive operative right determined by the Commission on August 16, 1960 in Case No. 6815.

Foster Van Lines, Inc. is a California corporation incorporated on November 3, 1975. It operates subject to the jurisdiction of this Commission as a radial highway common carrier and household goods carrier under permits issued on December 4, 1975 in File No. T-112525. The corporation proposes to issue \$12,100 aggregate par value of its capital stock to said Howard C. Foster, and to apply the proceeds as follows:

a. Warehouse, office and shop equipment, materials and supplies	\$10,000
b. Initial operating capital	2,000
c. Operating right as a public warehouseman	<u>100</u>
Total	<u>\$12,100</u>

The application was listed on the Commission's Daily Calendar of January 13, 1976. No objection to the granting of the application has been received.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue is for proper purposes.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the prescriptive operative right presently held by Howard C. Foster and the issuance of a certificate in appendix form to Foster Van Lines, Inc.

The authorization granted shall not be construed as a finding of the value of the right and properties authorized to be transferred.

Foster Van Lines, Inc. 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 after the effective date hereof and on or before June 30, 1976, Howard C. Foster may sell and transfer the operative right and property referred to in the application to Foster Van Lines, Inc.

2. Foster Van Lines, Inc., on or after the effective date hereof and on or before June 30, 1976, for the purposes specified in the application, may issue not exceeding 1,210 shares of its \$10 par value capital stock to Howard C. Foster.

3. Foster Van Lines, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the transfer Foster Van Lines, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

5. Foster Van Lines, Inc. 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.

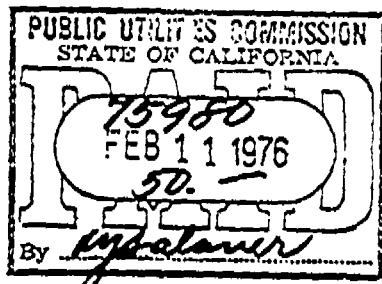
6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Foster Van Lines, Inc. authorizing it to operate as a public utility warehouseman, 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 of this decision.

7. The prescriptive operative right as determined by the Commission's order dated August 16, 1960 in Case No. 6815 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

8. Foster Van Lines, Inc. 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.

9. This order shall become effective when Foster Van Lines, Inc. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 10th day
of FEBRUARY, 1976.



[Signature] President
William Symons Jr.
[Signature]
Leonard Kon
[Signature]
Commissioners

Foster Van Lines, Inc., 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>
Richmond	5,000
Vallejo	5,000

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

(END OF APPENDIX A)

Issued by the California Public Utilities Commission.

Decision No. 85436, Application No. 56178.