

Decision No. ~~89830~~

JAN 4 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of LYON MOVING & STORAGE COMPANY,)
a California corporation, to)
transfer, and of WEBER TRUCK AND)
WAREHOUSE, a California corpora-)
tion, to acquire a Public Utility)
Warehouseman Certificate of Public)
Convenience and Necessity.)

Application No. 58409
(Filed October 16, 1978)

OPINION AND ORDER

Lyon Moving & Storage Company (Lyon), a California corporation, possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space at National City. By this application it seeks authority to sell, and Weber Truck and Warehouse (Weber), a corporation, to purchase the aforementioned right at National City.

Weber, which operates as a highway permit carrier, possesses a certificate of public convenience and necessity to operate as a public utility warehouseman in the City of Commerce and Vernon granted by Decision No. 87105. Applicant purchaser proposes to lease on a long-term basis certain real property with all appurtenances thereto totaling approximately 105,000 square feet of space at National City and to adopt the warehouse tariff rates and rules of applicant seller. According to the application, applicant purchaser has the financial resources, experience and personnel to conduct the warehouse services involved. The cash consideration is \$6,455.

Copy of the application was mailed to California Warehousemen's Association on or about September 29, 1978. The application was listed on the Commission's Daily Calendar of October 17, 1978. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.

2. Public convenience and necessity no longer require applicant seller's operations as a public utility warehouseman in National City.

3. Public convenience and necessity require the services of applicant purchaser as a public utility warehouseman in 105,000 square feet of floor space in National City.

4. It can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes 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 held by Lyon Moving & Storage Company at National City and the issuance of a certificate of public convenience and necessity in appendix form to Weber Truck and Warehouse.

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

Weber Truck and Warehouse 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.

IT IS ORDERED that:

1. On or before April 30, 1979, Lyon Moving & Storage Company, a corporation, may transfer the operative right referred to in the application to Weber Truck and Warehouse.

2. Within thirty days after the transfer 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. 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 had adopted or established, as its own, such 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. On or before the end of the third month after the transfer, the purchaser 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 seller 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 Weber Truck and Warehouse 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 prescriptive operative right to operate in National City granted to Lyon as determined by the Commission's order dated September 1, 1960 in Case No. 6944 and restated in Decision 83385 and the certificate of public convenience and necessity also granted to Lyon by Decisions 81634 and 86301 dated July 24, 1973 and August 24, 1976, respectively, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3, and

the remaining authority will be restated as set forth in Appendix B and made a part hereof.

7. The certificate of public convenience and necessity granted to Weber by Decision 87105 dated March 15, 1977 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

8. Purchaser shall maintain his accounting records in conformance with any applicable Uniform System of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The Executive Director is directed to cause service of certified copies of the order to be made upon Lyon Moving & Storage Company and Weber Truck and Warehouse or to mail certified copies thereof to them at their known addresses as shown in the Commission's records and to mail copies of this order to Western Motor Tariff Bureau, Inc., Agent and California Warehouse Tariff Bureau, Agent.

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

Dated at San Francisco, California, this 4th day of JANUARY, 1979.

Robert Bateman
 President

Robert W. Lovell

Walter D. ...

Commissioners

Appendix A

WEBER TRUCK AND WAREHOUSE
(a corporation)

Weber Truck and Warehouse, 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>
City of Commerce	110,000
National City	105,000
Vernon	175,000

(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 89830, Application 58409.

LYON MOVING & STORAGE CO.
(a corporation)

Lyon Moving & Storage Co., 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>
Belmont	5,000
Beverly Hills	2,500
Glendale	2,500
La Mesa	5,000
Long Beach	27,840
Los Angeles	177,100
Oakland	5,000
Pasadena	4,500
Sacramento	20,000
San Diego	5,000
Santa Barbara	2,500
Van Nuys	22,500
Vernon	10,000

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible at each location under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

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