

ORIGINAL

Decision No. 89939 JAN 30 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

(a) KOERBER WAREHOUSE COMPANY, a)
California corporation, for)
authority to issue and sell 200)
shares of its no par capital)
stock; and)

Application No. 58503
(Filed December 1, 1978)

(b) KOERBER WAREHOUSE COMPANY, a)
California corporation to acquire)
the assets and warehouse opera-)
tive rights of E. V. KOERBER,)
doing business as KOERBER WARE-)
HOUSE COMPANY.)

OPINION AND ORDER

Ethelyn V. Koerber, an individual doing business as Koerber Warehouse Company, possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space at Glendale. By this application, she seeks authority to sell and transfer and Koerber Warehouse Company, a California corporation, seeks authority to purchase and acquire the aforementioned operative right.

The corporation is authorized by its Articles of Incorporation to issue 7,500 shares of common stock without par value. All of its authorized stock is of the same class. Pursuant to Sections 817, 851 and 1052 of the Public Utilities Code, the corporation seeks authority to issue a total of 200 shares of its authorized no par capital stock, as follows:

Robert P. Koerber	110 shares
Ethelyn V. Koerber	90 shares

The transfer of Ethelyn V. Koerber's prescriptive operative right to the corporation will continue the same experienced management, at the existing rates, and will assure adequate service to the public in the same manner as heretofore. The change from a sole proprietorship to a corporation will only change the financial structure of an on-going business. Approval of the application will have no adverse effect upon the environment.

A copy of the application has been forwarded to the Los Angeles Warehousemen's Conference of the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of December 6, 1978. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that:

1. Public convenience and necessity require that the aforementioned operative right be purchased by and transferred to Koerber Warehouse Company, a California corporation.

2. Koerber Warehouse Company be authorized to issue not to exceed two hundred (200) shares as follows:

Robert P. Koerber	110 shares
Ethelyn V. Koerber	90 shares

3. It can be seen with certainty that the proposed activity will not have a significant effect on the environment.

4. A public hearing is not necessary.

5. The order which follows will provide for revocation of the present certificate held by applicant and the issuance in its place and stead of a new certificate.

6. The order which follows will also provide for the issuance of common capital stock by Koerber Warehouse Company in the amount of two hundred (200) shares with no stated par value.

7. Koerber Warehouse Company 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. The Commission concludes that the application should be granted.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Koerber Warehouse Company, a California corporation, 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 by this reference made a part hereof.

2. Koerber Warehouse Company is authorized to issue one hundred and ten (110) shares of its common capital stock to Robert P. Koerber and ninety (90) shares of its common capital stock to Ethelyn V. Koerber.

3. In issuing this decision, we place the issuer of the authorized stock and its share holders on notice that we do not regard the number of shares outstanding, the total stated value of the shares, nor the dividends paid, as measuring the return it should be allowed to earn on its investment in plant, and that this authorization is not to be construed as a finding of the value of the Company's stock or property nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

4. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so 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 it accepts the certificate it will be required, among other things, to file annual reports of its 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 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 establishment of the authorized service.
- (d) The tariff 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.
- (e) Applicant shall maintain its accounting records on a calendar-year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

5. The prescriptive operative right granted in Case No. 6717, dated August 1, 1960, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

6. The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

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In all other respects, the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 30 day of JANUARY, 1979.

Richard D. Gavelle

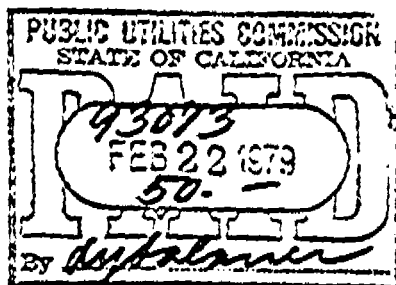
President
Norman L. Sturgeon

Clair T. DeWitt

Commissioners

Commissioner John E. Bryson
present but not participating.

Commissioner Leonard M. Grimes Jr.
present but not participating.



APPENDIX A

KOERBER WAREHOUSE COMPANY
(a corporation)

Koerber Warehouse Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted below, 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>
Glendale	5,000

(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 89939, Application 58503.