

ORIGINAL

Decision No. 92425 NOV 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of James Lennon, an individual, doing business as East Bay Drayage and Warehouse Company and East Bay Drayage and Warehouse Company, a California corporation, for the transfer of a certificate of public convenience and necessity to operate a public warehouse in the community of Berkeley, County of Alameda, State of California.

Application No. 59656
(Filed May 15, 1980;
amended August 28, 1980)

O P I N I O N

By this application James Lennon (Lennon), an individual doing business as East Bay Drayage and Warehouse Company, and East Bay Drayage and Warehouse Company, Inc. (East Bay), a California corporation, seek authority to transfer the certificate of public convenience and necessity to operate a public warehouse from Lennon to East Bay. The certificate was granted to Lennon pursuant to D.81880 dated September 14, 1973, in A.54177.

It is alleged that Lennon is the sole owner of all capital stock of East Bay. The operation of the warehouse will be substantially unchanged after transfer of the certificate.

The sales agreement appended to the application shows that East Bay agrees to pay \$7,500 for the certificate of public convenience and necessity held by Lennon. Payment is to be made upon approval to transfer said certificate.

The balance sheet attached to the amended application shows a shareholder's equity of \$50,115.26 as of June 1, 1980. The current ratio is 3-1/2 to 1.

The application was noticed in the Commission's Daily Calendar of May 19, 1980. No protests to the granting of the application have been received. A public hearing is not necessary.

Findings of Fact

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

2. The proposed transfer will not be adverse to the public interest.

Conclusion of Law

We conclude that the transfer should be authorized. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Lennon, dba East Bay Drayage and Warehouse Company, and the issuance of a certificate in appendix form to East Bay.

East Bay 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, 1980, James Lennon, doing business as East Bay Drayage and Warehouse Company, may sell and transfer the operative rights referred to in the application to East Bay Drayage and Warehouse Company, Inc. This authorization shall expire if not exercised by December 31, 1980. ✓

2. Within thirty days after the transfer, the purchaser 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 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 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 East Bay Drayage and Warehouse Company, 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 attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 81880 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser 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.

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

Dated NOV 18 1980, at San Francisco, California.

John E. Burns President
Vernon L. Stanger
Richard D. Howell
Clare J. ...
... Commissioners

East Bay Drayage and Warehouse Company, Inc., a California 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>
Berkeley	30,000

(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 No. 92425, Application No. 59656.