

ORIGINALDecision No. 75423

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LOYALTY WAREHOUSE COMPANY, a
corporation, to purchase, and
MARINE TRANSPORT COMPANY, a corpo-
ration, to sell public utility
warehouse operating authority,
pursuant to Section 851, et seq.,
and Section 1052 of the California
Public Utilities Code.

Application No. 50871
(Filed February 10, 1969)

O P I N I O N

Marine Transport Company requests authority to sell and transfer and Loyalty Warehouse Corporation requests authority to purchase and acquire a prescriptive right authorizing operation as a public utility warehouseman in the City of Commerce.

The operative right was set forth by the Commission's order dated July 12, 1960 in Case No. 6604 and authorizes operation in 30,000 square feet of warehouse space. The agreed cash consideration is \$10,000.

Applicant buyer is presently engaged as a private warehouseman in the City of Commerce and in addition thereto is engaged in the transportation of property as a radial and highway common carrier. The warehouse property of applicant buyer is located approximately 1-1/2 miles from applicant seller's premises. It is an eleven-year-old building consisting of 65,000 square feet of space protected by sprinklers and is served by a rail spur. As of August 31, 1968, applicant buyer indicated a net worth in the amount of \$27,099.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Marine Transport Company and the issuance of a certificate in appendix form to Loyalty Warehouse Corporation.

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

Loyalty Warehouse Corporation is hereby 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 1, 1969, Marine Transport Company may sell and transfer, and Loyalty Warehouse Corporation may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Loyalty Warehouse Corporation shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Loyalty Warehouse Corporation shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations herein to show that it has adopted or established, as its own, said 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 consummation of the transfer herein authorized. 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-A. Failure to comply with and observe the provisions of General Order No. 61-A 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 consummation of the transfer as herein authorized, Loyalty Warehouse Corporation 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 fiscal year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Loyalty Warehouse Corporation 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 set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted in Case No. 6604, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Loyalty Warehouse Corporation shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities by including in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

8. In providing service pursuant to the certificate herein granted, Loyalty Warehouse Corporation shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its operations.

9. Applicants shall, at the direction of the owner of any property in storage at the premises of the Marine Transport Company, transport such property to the premises of Loyalty Warehouse Corporation at the expense of applicants and at no expense or risk to the owner of the property transported.

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

Dated at San Francisco, California, this 11th day of MARCH, 1969.

Augustus
President

Shad R. Monessey
William Symons, Jr.
Thomas M. Moran
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Loyalty Warehouse 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 for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Commerce	30,000

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

Issued by California Public Utilities Commission.

Decision No. 75423, Application No. 50871.