

ORIGINAL

Decision No. 77108

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )  
 COMPASS TRADING CO., INC., a )  
 corporation, and ROBERTSON DRAYAGE )  
 CO., a corporation, to sell public )  
 utility warehouse operating authority, )  
 pursuant to Section 851, et seq., )  
 and Section 1052 of the California )  
 Public Utilities Code. )

Application No. 51768  
 (Filed March 13, 1970)

O P I N I O N

In this application, Robertson Drayage Co., Inc., a corporation (seller), seeks authority to sell and transfer, and Compass Trading Co., Inc., a corporation (buyer), seeks authority to purchase and acquire, a certificate of public convenience and necessity to operate as a public utility warehouseman. Buyer also seeks authority to transfer the public utility warehouse facility from its present location in San Jose to a new location in Sunnyvale.

Seller conducts business as a public utility warehouseman pursuant to the certificate granted by Decision No. 60076, dated May 19, 1960, in Application No. 41829, which authorized the operation of 7,800 square feet of public utility warehouse space at San Jose, exclusive of the expansion permitted under Section 1051 of the Public Utilities Code. The agreed cash consideration is \$7,000, as set forth in the purchase agreement attached to the application.

The application states that seller is desirous of terminating its public utility warehouse operations in order to devote its attention to its primary business of conducting motor carrier

operations. Buyer alleges that its officers are well qualified and experienced to conduct the management and operation of a public utility warehouse, having been engaged in the warehouse and transportation business in California since 1954.

The application contains a statement of the financial condition of buyer, which indicates that buyer has assets of \$7,180. The application also contains the personal financial statement of buyer's president, which shows a net worth of \$111,146. The application states that buyer's president has agreed to lend applicant the sum of \$25,000 at four percent interest, payable within 12 months on demand, as working capital.

The application further states that buyer is presently negotiating for the acquisition of a warehouse building at 1266 Kifer Road, Sunnyvale, on which site is located a concrete building served by rail spur, and having a covered dock area and a paved parking lot for motor carrier equipment. The application alleges that said site is within 2-1/2 miles of the city limits of San Jose, and within a commercial area serving both San Jose and Sunnyvale.

The application indicates that buyer will adopt the tariffs of seller if the application is granted.

The application shows that on March 12, 1970, copies of the application were served upon the California Warehousemen's Association and upon seven public utility warehousemen operating in San Jose and one public utility warehouseman operating in San Francisco. The application was listed on the Commission's Daily Calendar of March 16, 1970. There are no protests.

After consideration the Commission finds as follows:

1. Transfer of the operative right here in question will not be adverse to the public interest.
2. After said transfer, public convenience and necessity will no longer require operations under said operative right at San Jose.
3. Public convenience and necessity will require the operation by buyer of 7,800 square feet of public utility warehouse floor space at Sunnyvale.
4. A public hearing is not necessary.

The Commission concludes that the application should be granted.

Compass Trading Co., Inc., 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.

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

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1970, Robertson Drayage Co., Inc., a corporation, may sell and transfer, and Compass Trading

Co., Inc., a corporation, may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser 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, 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 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 Compass Trading Co., Inc., a 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 by Decision No. 60076, in Application No. 41829, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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.

8. Applicants shall, at the direction of the owner of any property in storage at the San Jose location, transport such property to the new facility or any available public utility warehouse in the

vicinity of San Jose at the expense of the 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 21<sup>st</sup> day of APRIL, 1970.

*Arguedas*  
President  
*[Signature]*  
*[Signature]*  
*William L. Sturgeon*  
Commissioners

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

Compass Trading Co., Inc., 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 warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Sunnyvale	7,800

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

(END OF APPENDIX A)

Issued by California Public Utilities Commission.  
Decision No. 77108, Application No. 51768.