

ORIGINAL

Decision No. 77780

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BERNARD J. HECHT, doing business as
 RICHMOND DISTRIBUTION CENTER,
 for an order permitting the
 assignment of a Certificate of
 Public Convenience and Necessity to
 DISTRIBUTION CENTERS, INC.,
 a California corporation:

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) Application No. 51971
) Filed June 17, 1970
) and Amendments
) Filed September 2, 1970
) and September 11, 1970
)
)

In the Matter of the Application of
 DISTRIBUTION CENTERS, INC.,
 a California corporation, for a
 permit to issue and sell its
 Securities.

O P I N I O N

Bernard J. Hecht, doing business as Richmond Distribution Center, requests authority to transfer his public utility warehouseman certificate of public convenience and necessity, together with related assets, to Distribution Centers, Inc., which corporation seeks authority to assume indebtedness and to issue 250 shares of its \$100 par value common stock.

The transferor operates as a public utility warehouseman pursuant to the certificate of public convenience and necessity granted by Decision No. 75768, dated June 10, 1969, in Application No. 50968. Said certificate authorizes the operation at Richmond

of 5,000 square feet of storage or warehouse floor space, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code. For the year 1969, the warehouseman reports public utility and nonutility operating revenues amounting to \$53,000 and \$154,609, respectively, and a net income of \$25,111. As of December 31, 1969, the reported assets and liabilities are as follows:

Assets

Fixed assets (net)	\$ 79,214
Current assets	62,507
Other assets	<u>8,586</u>
Total	<u>\$150,307</u>

Liabilities

Proprietary capital	\$ 52,011
Long-term debt incurred in 1967	37,843
Long-term debt incurred in 1969	33,978
Current and accrued liabilities	<u>26,470</u>
Total	<u>\$150,307</u>

In this proceeding the transferor contemplates transferring said certificate of public convenience and necessity, together with related assets, to Distribution Centers, Inc., a California corporation incorporated on or about July 1, 1969. In acquiring the certificate and other assets the latter proposes to assume outstanding indebtedness and to issue \$25,000 aggregate par value of its common stock. However, said long-term debt incurred in 1969, together with the assets acquired therefrom, will remain the

obligation and property, respectively, of the transferor. Applicants report that no value is or will be assigned to the certificate of public convenience and necessity.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application, as amended, should be granted. A public hearing is not necessary. The authorization herein granted shall not be construed as a finding of the value of the operative right and property herein authorized to be transferred, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Bernard J. Hecht, doing business as Richmond Distribution Center, and the issuance of a certificate in appendix form to Distribution Centers, Inc.

Distribution Centers, 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, these 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, 1970, Bernard J. Hecht, doing business as Richmond Distribution Center, may sell and transfer, and Distribution Centers, Inc. may purchase and acquire, the certificate of public convenience and necessity and property referred to in this proceeding.

2. Distribution Centers, Inc., on or before December 31, 1970, for the purpose specified in this proceeding, may issue not exceeding 250 shares of its \$100 par value common stock, and may assume the outstanding indebtedness referred to in this proceeding other than the long-term debt incurred in 1969.

3. Distribution Centers, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Distribution Centers, Inc. 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.

5. Distribution Centers, Inc. 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.

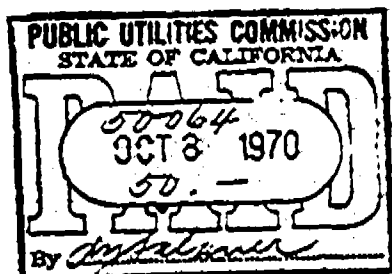
6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Distribution Centers, Inc., as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 75768, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

8. Within thirty days after the transfer herein authorized is consummated, Distribution Centers, Inc. shall file a written acceptance of the certificate herein granted. Distribution Centers, Inc. 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. This order shall become effective when Distribution Centers, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California,
this 14 day of OCTOBER, 1970.



[Signature] Chairman
[Signature]
William J. [Signature]
[Signature]
Vernon L. Sturgeon Commissioners

Distribution Centers, Inc., 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>
Richmond	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 No. 77780, Application No. 51971.