

Decision No. 77917

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Application No. 51768
 (Petition for Modification
 Filed October 2, 1970)

SUPPLEMENTAL OPINION

Decision No. 77108, dated April 21, 1970, in this proceeding authorized Robertson Drayage Co., Inc., a corporation, to sell and transfer, and Compass Trading Co., Inc., a corporation (Compass), to purchase and acquire, a certificate of public convenience and necessity to operate as a public utility warehouseman. Compass also was authorized to transfer the public utility warehouse facility from San Jose to a new location in Sunnyvale. The authority granted by Decision No. 77108 was extended to November 1, 1970, by Decision No. 77661.

In its Petition for Modification of Decision No. 77108, filed October 2, 1970, Compass seeks modification of the foregoing authority to return the location of the operative right involved to San Jose. In support of this request, Compass states that it has secured, under a ten-year lease, a warehouse building at the corner of Junction Avenue and Brennan Street in San Jose, and desires to operate its public utility warehouse at this location.

Copies of the Petition were served on known interested parties and notice of the filing thereof appeared on the Commission's Daily Calendar. 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 Sunnyvale.
3. Public convenience and necessity will require the operation by Compass of 7,800 square feet of public utility warehouse floor space at San Jose.
4. A public hearing is not necessary.

The Commission concludes that the Petition for Modification 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.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. On or before January 1, 1971, Robertson Drayage Co., Inc., a corporation, may sell and transfer, and Compass Trading Co., Inc.,

A. 51768 ms

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 certificates of public convenience and necessity granted by Decision No. 60076, in Application No. 41829, and by Decision No. 77108 herein, which certificates are 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 10th
day of NOVEMBER, 1970.

Chairman

Commissioners

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> |
|-----------------|---|
| San Jose | 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. 77917, Application No. 51768.