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Decision No. 79271

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DISTRIBUTION CENTERS, INC., a)
California corporation doing business)
as Richmond Distribution Center, to)
expand its certificate of public con-)
venience and necessity to operate a)
public warehouse in the City of)
Richmond, County of Alameda, California.)

Application No. 52798
(Filed August 9, 1971)

O P I N I O N

Applicant Distribution Centers, Inc., doing business as Richmond Distribution Center, is presently authorized to conduct operations and is conducting operations pursuant to a certificate of public convenience and necessity which was first created by Decision No. 75768 dated June 10, 1969, in Application No. 50968 to Mr. Bernard J. Hecht, then doing business as Richmond Distribution Center. In Decision No. 77780, dated October 6, 1970, in Application No. 51971, the Commission authorized the transfer of that certificate to Distribution Centers, Inc. Said certificate authorizes operations at Richmond, California, for 5,000 square feet of storage or warehouse floor space, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.

Applicant requests that this Commission issue to it a certificate authorizing it to expand its public warehouse floor space from 5,000 square feet to 75,000 square feet in the City of Richmond, said total space to be exclusive of the 50,000 feet of expansion permissible under the Public Utilities Code.

Applicant states that it is presently using all of its building's storage capacity of approximately 120,000 square feet primarily due to the fact that applicant has been able to provide a responsive and efficient service to meet the ever increasing demand

for warehouse space in the City of Richmond. If applicant's existing certificate is expanded to 75,000 square feet, exclusive of the 50,000 square feet of expansion permissible under the Public Utilities Code, such expansion would allow it to operate its entire facility as a public utility warehouse. Applicant submits that approval of the application cannot adversely affect the operations of other existing public warehouses in the City of Richmond in that approval thereof will merely allow applicant to perpetuate its present business operation.

A copy of applicant's balance sheet as of March 31, 1971, and a copy of the profit and loss statement of its operations for the nine month period ending March 31, 1971, are attached to the application as Appendix A.

A copy of the application was served upon the California Warehousemen's Association which includes in its membership warehouses which might be interested in this application or which might be competitive with the proposed operation. No protest has been filed.

The Commission finds that:

1. Applicant has the facilities, personnel and financial resources to render the service proposed in the application.
2. Public convenience and necessity require that the application be granted.
3. A public hearing is not necessary.

The Commission concludes that the application should be granted as provided by the following order.

Applicant 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 in particular communities. 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. A certificate of public convenience and necessity is granted to Distribution Centers, Inc., a corporation, doing business as Richmond Distribution Center, 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.

2. In providing service pursuant to the certificate herein granted, applicant 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.

- (a) 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.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend its tariffs on file with the Commission to reflect the authority herein granted.
- (c) 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 establishment of the service herein authorized.

(d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

3. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include 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.

4. The certificate of public convenience and necessity granted in ordering paragraph 1 above shall supersede the certificate of public convenience and necessity acquired by Decision No. 77780, dated October 6, 1970, in Application No. 51971, which certificate shall be revoked effective concurrent with the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 27th day of OCTOBER, 1971.

[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners

-4- Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Distribution Centers, Inc., a corporation, doing business as Richmond Distribution Center, 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>
Richmond	75,000

(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. 79271, Application No. 52798.