

Decision No. 79591

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
(a) Rhea M. McLeod, an individual,
doing business as Budway Express, to
purchase, and Joseph J. Rossini, an
individual, to sell public utility
warehouse operating authority, pur-
suant to Section 851, et seq., and
Section 1052 of the California Public
Utilities Code; and upon approval
thereof, (b) To operate as a public
warehouseman in Pico Rivera,
California; and (c) For authorization
to cease operations at Los Angeles,
California.

Application No. 53021
(Filed November 22, 1971)

O P I N I O N

Joseph J. Rossini requests authority to sell and transfer, and Rhea M. McLeod, doing business as Budway Express, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a public utility warehouseman in the City of Los Angeles. In addition thereto, Rhea M. McLeod requests authority to transfer said certificated authority from Los Angeles to Pico Rivera.

The certificate was granted by Decision No. 78415 dated March 9, 1971, in Application No. 52422 and authorized operations as a public utility warehouseman in 40,000 square feet of space in the City of Los Angeles. The agreed cash consideration is \$12,000.

Applicant purchaser is presently engaged as a highway common carrier for the transportation of automobile parts, accessories and supplies between Los Angeles, Wilmington and San Pedro pursuant to Decision No. 6954, dated December 17, 1919. As of September 30, 1971, applicant purchaser indicated a net worth in the amount of \$43,090.

It is alleged that applicant purchaser has a long-term lease of a concrete tilt-up building, containing in excess of 100,000 square feet of space, with 16 feet of stacking height; that applicant purchaser has had numerous requests for service at Pico Rivera; that there is only one authorized public utility warehouseman in Pico Rivera; that none of applicant sellers present customers have any objection to his discontinuance of service in Los Angeles; and that applicant seller will arrange and pay for the cost of moving the goods of his customers to the new facilities at Pico Rivera.

Copies of the application were served upon Central Terminal Warehouse in Pico Rivera and upon the Los Angeles Warehouseman's Association. No protests have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. The Commission further finds that public convenience and necessity no longer require applicant seller's service at Los Angeles and that public convenience and necessity require applicant purchaser's service at Pico Rivera. 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 Joseph J. Rossini and the issuance of a certificate in appendix form to Rhea M. McLeod.

Rhea M. McLeod 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 May 1, 1972, and upon the condition that applicant seller shall transfer the property of his customers at his expense to the new warehouse at Pico Rivera or to a warehouse of his customer's choice in the Los Angeles area, Joseph J. Rossini may sell and transfer, and Rhea M. McLeod 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 she has adopted or established, as her 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. Purchaser shall maintain her accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of her operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Rhea M. McLeod, 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 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 78415, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

8. 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

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that, if she accepts the certificate of public convenience and necessity herein granted, she will be required, among other things, to file annual reports of her operations.

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

Dated at San Francisco, California, this 11th
day of JANUARY, 1972.

William J. ...
Chairman
William J. ...
Thomas L. ...
...
Commissioners

Rhea M. McLeod, doing business as Budway Express, 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>
Pico Rivera	40,000

(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. 79591, Application No. 53021.