

Decision No. 80257**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NORTHERN CALIFORNIA )  
 COMPANY (dba BERGER & PLATE COMPANY )  
 OF CALIFORNIA) to transfer certain )  
 public utility warehouse property )  
 to Pacific Molasses Company. }

Application No. 53353  
 (Filed May 25, 1972)

O P I N I O N

Northern California Company, doing business as Berger & Plate Company of California, requests authority to transfer, and Pacific Molasses Company requests authority to acquire, a public utility warehouse operation presently being conducted in Kerman, California.

The certificate relating to the Kerman operation was granted by Decision No. 74293, dated June 25, 1968, in Application No. 50167, and authorizes operations in 33,000 square feet of space.

It is alleged that on March 31, 1971, Pacific Molasses Company acquired all of the outstanding stock of Berger & Plate Company of San Francisco and with it all of the stock of its wholly-owned subsidiary, Northern California Company, doing business as Berger & Plate Company of California; and that on September 30, 1971, Berger & Plate Company of San Francisco and its subsidiary company, Northern California Company, were merged into Pacific Molasses Company.

The Commission records show that Northern California Company, doing business as Berger & Plate Company, was also authorized to conduct operations as a public utility warehouseman in 46,590 square feet of space in the City of Modesto pursuant to prescriptive authority set forth in Commission order dated July 12, 1960, in Case No. 6621. Pacific Molasses Company has informed the Commission by letter that operations in Modesto were discontinued several years ago.

After consideration the Commission finds that the proposed transfer of the Kerman operation would not be adverse to the public interest. The Commission also finds that the public utility operation in Modesto has been abandoned and that the prescriptive authority relating thereto should be revoked. A public hearing is not necessary.

Pacific Molasses Company 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 December 1, 1972, Northern California Company may sell and transfer, and Pacific Molasses Company may purchase and acquire, the operative rights and property 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 Pacific Molasses Company, 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. 74293, dated June 25, 1963, in Application No. 50167, 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. The prescriptive authority covering operations in Modesto as set forth in Commission order dated July 12, 1960, in Case No. 6621 is hereby revoked.

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

Dated at Los Angeles, California, this 18<sup>th</sup> day of JULY, 1972.

Vernon L. Sturgeon  
President  
William J. ...  
...  
...  
Commissioners

Pacific Molasses Company, 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 storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Kerman	33,000

(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.

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