

Decision No. 80700**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 NATIONAL DISTRIBUTION SERVICES OF
 CALIFORNIA, a corporation, to purchase
 and SHIPPERS TERMINAL CO. OF CALIFORNIA,
 INC., a corporation, to sell, public
 utility warehouse operating authority,
 pursuant to Section 851 and Section 1052
 of the California Public Utilities Code;
 and upon approval thereof, to transfer
 said operation authority to a location
 in Carson, California, and Granting a
 Certificate of Public Convenience and
 Necessity to NATIONAL DISTRIBUTION
 SERVICES OF CALIFORNIA in the event
 the transfer is consummated.

Application No. 53499
 (Filed August 1, 1972;
 Amended September 29, 1972)

O P I N I O N

Shippers Terminal Co. of California, Inc. requests authority to sell and transfer, and National Distribution Services of California (NDS) requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a public utility warehouseman in 162,000 square feet of floor space in Los Angeles. Applicant purchaser also requests that upon approval of the transfer the authority to operate pursuant to said certificate be transferred to Carson, California.

By amendment to the application, it is requested that the proposed transfer of the operative right be granted immediately although applicant purchaser anticipates that it will not commence operations until sometime in 1973. The amendment also states that applicant purchaser cannot at this time submit definitive tariff proposals for its operation but that before it consummates the transfer and commences the operation, it will submit a proposed tariff for the approval of the Commission.

The certificate was granted by Decision No. 77791, dated October 6, 1970, in Application No. 52091. The agreed cash consideration is \$29,000.

NDS is presently negotiating the lease of a facility site in the Watson Industrial Center area of the City of Carson and will construct a building suitable for public warehouse operations having

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approximately 205,000 square feet of space. As of June 30, 1972, NDS indicated a net worth in the amount of \$54,000.

It is alleged that applicant purchaser and its affiliated corporations have had numerous requests for the services it proposes to render; that after a lengthy study it was determined that the Watson Industrial Park in the City of Carson is the most suitable site for the operation; that arrangements have been made to transfer the property of the present storers of applicant seller to other public warehouses in the immediate area at applicant seller's expense; and that none of the storers have any objection to the proposed transfer.

A copy of the application was served upon the Los Angeles Warehousemen's Association and the Redway Trust and Warehouse Company located in the City of Carson. No protest has been received.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. Public convenience and necessity no longer require the operation of Shippers Terminal Co. of California in Los Angeles.
3. Public convenience and necessity require the operations of NDS as a public utility warehouseman in 162,000 square feet of space in Carson.

The Commission concludes that the application should be granted subject to the condition that Shippers Terminal Co. of California shall pay the cost of moving the property of its present customers to a warehouse of its customers' choice within the Los Angeles area.

NDS 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 1, 1973, and upon the condition that Shippers Terminal Co. of California, Inc. shall pay the cost of moving the property of its present customers to a warehouse of its customers' choice in the Los Angeles area, Shippers Terminal Co. of California, Inc. may sell and transfer, and National Distribution Services of California 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 National Distribution Services of California, 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. 77791, 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.

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

Dated at San Francisco, California, this 8th day of NOVEMBER, 1972.

Vernon L. Sturgeon
President
William L. Sturgeon

[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

National Distribution Services of California, 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>
Carson	162,000

(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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