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ORIGINAL

Decision No. 82110

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MELBA E. PERSONS,
Executrix of Last Will of STANLEY M.
PERSONS, deceased, and Application
of CHARLOTTE M. BRINK, individually
and as Trustee under Last Will of
LEON BRINK, deceased, H. S. BRINK, JR.,
HELEN H. PERSONS, and MELBA E. PERSONS,
individually, to continue the operation
of DOTY BRICK WAREHOUSE, a partnership.

Application No. 54340
(Filed September 24, 1973)

O P I N I O N

By Decision No. 76736 dated February 3, 1970 in Application No. 51462, a certificate of public convenience and necessity was granted to Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, H. S. Brink, Jr., Helen H. Persons, individually, and Melba E. Persons, as executrix of the last will of Stanley M. Persons, deceased. The certificate authorized operations as a public utility warehouseman in 60,000 square feet of space in the vicinity of Biggs.

By the instant application authority is sought to transfer the warehouse interests of Stanley M. Persons, deceased, to Melba E. Persons, as an individual, pursuant to the last will and testament of the decedent and the final order of distribution of the Superior Court for the State of California.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, H. S. Brink, Jr., Helen H. Persons, as individuals, and Melba E. Persons, as executrix of the last will of Stanley M. Persons, deceased, and the issuance of a certificate in appendix form to Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, and H. S. Brink, Jr., Helen H. Persons, and Melba E. Persons, as individuals.

Transferees are 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, 1974, Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, H. S. Brink, Jr., Helen H. Persons, as individuals, and Melba E. Persons, as executrix of the last will of Stanley M. Persons, deceased, may transfer the operative rights and property referred to in the application to Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, and H. S. Brink, Jr., Helen H. Persons, and Melba E. Persons, as individuals.

2. Within thirty days after the transfer the transferees shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Transferees shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that they have adopted or established, as their own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 61-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Charlotte M. Brink, individually and as trustee under the last will of Leon Brink, deceased, and H. S. Brink, Jr., Helen H. Persons, and Melba E. Persons, as individuals, authorizing them 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 set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 76736 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall maintain their accounting records in conformance with any applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 13th
day of NOVEMBER, 1973.

James L. Spence
President
William Persons, Jr.
William Persons, Jr.
William Persons, Jr.
Commissioners

CHARLOTTE M. BRINK, INDIVIDUALLY
AND AS TRUSTEE UNDER LAST WILL
OF LEON BRINK, DECEASED, H. S.
BRINK, JR., HELEN H. PERSONS,
AND MELBA E. PERSONS, DOING
BUSINESS AS DOTY BRICK WAREHOUSE,
A PARTNERSHIP.

Charlotte M. Brink, individually and as Trustee under Last Will of Leon Brink, deceased, and H. S. Brink, Jr., Helen H. Persons and Melba E. Persons, as individuals, doing business as DOTY BRICK WAREHOUSE, a partnership, by the certificate of public convenience and necessity granted in the decision noted in the margin, are 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> |
|-----------------------|---|
| Biggs and vicinity | 60,000 |

(The floor space shown is exclusive of
the expansion permissible under Section
1051 of the Public Utilities Code.)

(End of Appendix A)

Issued by the California Public Utilities Commission.

Decision No. 82110, Application No. 54340.