

**ORIGINAL**

Decision No. 83370

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )

- (a) MERCHANDISE CONTROL SERVICE, a corporation, to purchase, and OVERMYER OF LA MIRADA, INC., a corporation, to sell public utility warehouse certificate of public convenience and necessity, pursuant to Sections 851 and 1052 of the California Public Utilities Code; and upon approval thereof,
- (b) To operate as a public warehouseman at Los Angeles, California;
- (c) For authorization to cease operations at Vernon, California; and
- (d) To extend or increase storage or warehouse floor space from 6,000 square feet to 100,000 square feet pursuant to Section 1051 of the California Public Utilities Code.

Application No. 55000  
(Filed June 27, 1974)

O P I N I O N

Overmyer of La Mirada, Inc. requests authority to sell and transfer, and Merchandise Control Service, a California corporation, requests authority to purchase and acquire for a cash consideration of \$10,000, a certificate of public convenience and necessity authorizing operations as a public utility warehouseman. Applicant purchaser also requests authority to transfer said warehouse operations from the city of Vernon to the city of Los Angeles and to increase the authorized floor space from 6,000 square feet to 100,000 square feet.

The certificate was granted by Decision No. 80261 dated July 18, 1972 in Application No. 53363, as amended by Decision No. 80357 dated August 8, 1972 in Application No. 53363, and authorizes operations in 6,000 square feet of floor space in the city of Vernon and 10,000 square feet of floor space in the city of La Mirada.

Applicant purchaser proposes to transfer the Vernon operations to the city of Los Angeles where it has available under a long-term lease three warehouse buildings having a total of 170,000 square feet of floor space. Applicant purchaser proposes to assess the same rates and charges as those presently being charged by applicant seller. As of March 31, 1974, applicant purchaser indicated a net worth in the amount of \$60,720.

It is alleged that the officers of applicant purchaser have many years of experience in conducting private warehouse and for-hire motor carrier operations; that applicant purchaser has received many requests from storers for service in Los Angeles; that none of applicant seller's customers have any objection to the discontinuance of service at Vernon; and that those storers who wish to transfer their goods to one of the warehouses of applicant purchaser may do so expense-free.

A copy of the application was served upon Los Angeles Warehousemen's Conference. 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 applicant seller's operations as a public utility warehouseman in the city of Vernon.

3. Public convenience and necessity require the services of applicant purchaser as a public utility warehouseman in 100,000 square feet of floor space in the city of Los Angeles.

4. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application should be granted. 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 Overmyer of La Mirada, Inc. and the issuance of certificates in appendix form to Overmyer of La Mirada, Inc. and Merchandise Control Service.

Overmyer of La Mirada, Inc. and Merchandise Control Service 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 March 1, 1975, Overmyer of La Mirada, Inc. may sell and transfer the operative rights referred to in the application to Merchandise Control Service.

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

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that it has adopted or established, as its 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, certificates of public convenience and necessity are granted to Overmyer of La Mirada, Inc. and Merchandise Control Service authorizing them to operate as public utility warehousemen, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space set forth in Appendices A and B, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decisions Nos. 80261 and 80357 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants are placed on notice that, if they accept the certificates, they will be required, among other things, to file annual reports of their operations.

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

Dated at San Francisco, California, this 27<sup>th</sup>  
day of AUGUST, 1974.

William L. Shuman  
President  
William Shuman  
[Signature]  
[Signature]  
Commissioners

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

Overmyer of La Mirada, Inc., 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>
La Mirada	10,000

(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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Merchandise Control Service, 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>
Los Angeles	100,000

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

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

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