

ORIGINALDecision No. 88367 JAN 17 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of AMERICAN COMMERCIAL WAREHOUSE,)
a corporation, for authority to)
acquire undefined prescriptive)
rights and PACIFIC COMMERCIAL)
WAREHOUSE, INC., a corporation,)
to transfer pursuant to Section)
851-854 of the California Public)
Utilities Code.)

Application No. 57650
(Filed October 20, 1977)

OPINION AND ORDER

Pacific Commercial Warehouse, Inc., a corporation, requests authority to sell and transfer, and American Commercial Warehouse, a corporation, requests authority to purchase and acquire, a prescriptive right authorizing operations as a public utility warehouseman in 130,000 square feet of storage space in the City of Los Angeles.

According to the application, applicant has the financial resources, experience and personnel to conduct the warehouse services involved. The cash consideration is \$3,000.

A copy of the application was mailed to the California Trucking Association on or about October 19, 1977. The application was listed on the Commission's Daily Calendar of October 26, 1977. No objection to the granting of the application has been received.

In the circumstances, 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 Los Angeles.
3. Public convenience and necessity require the services of applicant purchaser as a public utility warehouseman in 130,000 square feet of floor space in Los Angeles.
4. It can be seen with certainty that there is no possibility that the activity in question may 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 consummated, the revocation of the prescriptive rights presently held by Pacific Commercial Warehouse, Inc., and the issuance of a certificate in appendix form to American Commercial Warehouse. The Commission further concludes that the effective date of this order should be the date hereof as applicant purchaser desires to establish service as soon as possible.

The authority granted shall not be construed as a finding of the value of the right authorized to be transferred.

American Commercial Warehouse is 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 cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

IT IS ORDERED that:

1. On or before March 1, 1978, Pacific Commercial Warehouse, Inc., may sell and transfer, and American Commercial Warehouse may purchase and acquire, the operative rights and property referred to in the application.
2. Within thirty days after the transfer, purchaser 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. 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, such rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and to 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 61-Series. Failure to comply with the provisions of General Order 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 American Commercial Warehouse authorizing it 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 in paragraph 4 of this order shall supersede the prescriptive right herein considered which is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. 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.

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The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17th day
of JANUARY, 1978.

William S. Quinn, Jr. President
Yessie L. Sturgeon
Robert D. Howell
Clare J. Deland Commissioners

Commissioner Robert Batinovich, being
necessarily absent, did not participate
in the disposition of this proceeding.

American Commercial Warehouse 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	130,000

(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 88367, Application 57650.