

ORIGINALDecision No. 88567 MAR 7 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of: D'ONOFRIO DRAYAGE, INC., a)
California corporation, M. Nolden,)
trustee in bankruptcy, for author-)
ity to transfer its certificated)
rights to operate as a public)
warehouseman to WALKUP DRAYAGE AND)
WAREHOUSE CO., a California corpor-)
ation, and of WALKUP DRAYAGE AND)
WAREHOUSE CO., for modification of)
the said certificate through the)
transfer, so as to substitute)
"Oakland" for "San Leandro" as the)
site of the public warehouse.)

Application No. 57793
(Filed January 11, 1978)

OPINION AND ORDER

D'Onofrio Drayage Company, Inc., a corporation, requests authority to sell and transfer, and Walkup Drayage and Warehouse Co., a corporation, requests authority to purchase and acquire operative rights authorizing operations as a public utility warehouseman in 80,000 square feet of storage space in the city of San Leandro. Applicant purchaser also requests authority to transfer said warehouse operations from the city of San Leandro to the city of Oakland.

According to the application, applicant has the financial resources, experience and personnel to conduct the warehouse services involved.

A copy of the application was mailed to the California Trucking Association and the Warehousemen's Conference of the California Trucking Association on or about January 5, 1978. The application was listed on the Commission's Daily Calendar of January 13, 1978. 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 the city of San Leandro.

3. Public convenience and necessity require the services of applicant purchaser as a public utility warehouseman in 80,000 square feet of floor space in the city of Oakland.

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

Walkup Drayage and Warehouse Co. 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 July 1, 1978, D'Onofrio Drayage Company, Inc. may sell and transfer, and Walkup Drayage and Warehouse Co. may purchase and acquire the operative rights 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 Walkup Drayage and Warehouse Co. 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 operative right herein considered which is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Applicant seller shall, at the direction of the owner of any property in storage at the present location, transport such property to the new facility of applicant purchaser or any available public utility warehouse in the vicinity of present location at the expense of applicant and at no expense or risk to the owner of the property transported.

7. 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

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current fiscal year to and including the effective date of the transfer.

The order shall become effective thirty days after the date hereof.

Dated at San Francisco, California, this 7th day of MARCH, 1978.

Robert Butwin

President

William Agnew Jr.

Vernon L. Stinson

Robert D. Heath

Carrie T. Deibel

Commissioners

Walkup Drayage and Warehouse Co. 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>
Oakland	80,000

(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 88567, Application 57793.