

Decision No. 89037 JUN 27 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of: COMPASS TRADING CO., INC., a)
California corporation, for au-)
thority to expand its presently)
authorized warehouse floor space)
to 120,000 square feet and move)
its warehouse location from San)
Jose to Milpitas, California,)
pursuant to § 1051 of the Califor-)
nia Public Utilities Code.)

Application No. 58050
(Filed May 5, 1978)

OPINION AND ORDER

Compass Trading Co., Inc., a California corporation, possesses a certificate of public convenience and necessity as a public utility warehouseman for the operation of storage or warehouse floor space at San Jose. By this application, it seeks authority to transfer its public utility warehouse operations from San Jose to Milpitas and to increase its storage or warehouse floor space from 80,000 to 120,000 square feet.

Applicant states that it has entered into a ten-year lease of a 169,195 square foot building located at 975 Yosemite Drive, Milpitas, with an option to purchase said premises on the third anniversary of the commencement date of the lease. The commencement date of said lease is anticipated to be June 1, 1978.

A copy of the application was mailed to the California Warehousemen's Association. The application was listed on the Commission's Daily Calendar of May 8, 1978. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that:

1. Public convenience and necessity no longer require applicant's operations as a public utility warehouseman in San Jose.
2. Public convenience and necessity require additional warehouse facilities at Milpitas.
3. The proposed transfer would not be adverse to the public interest.

4. Public convenience and necessity require the services of applicant as a public utility warehouseman in 120,000 square feet of floor space in Milpitas.

5. It can be seen with reasonable certainty that the activity in question will not have a significant effect on the environment.

6. A public hearing is not necessary.

7. The order which follows will provide for revocation of the present certificate held by applicant and the issuance of a new certificate in appendix form to it.

The Commission concludes that the application should be granted.

Compass Trading Co., Inc., 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 canceled 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. A certificate of public convenience and necessity is granted to Compass Trading Co., Inc., 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.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following restrictions. Failure to do so may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written

acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate, it will be required, among other things, to file annual reports of its operations.

- (b) Within one hundred and twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) 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 the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order 61-Series.

3. The certificate of public convenience and necessity granted by Decision 81137 is revoked effective concurrently with the effective date of the tariff filing required by paragraph 2(b).

4. Applicant 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 or any available public utility warehouse in the vicinity of the present location at the expense of the applicant and at no expense or risk to the owner of the property transported.

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

Dated at San Francisco, California, this 27th day of JUNE, 1978.

William S. Lyons, Jr. President
James L. Sturgeon
Richard D. Howell
Paul T. Schindler Commissioners

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

Compass Trading Co., Inc., 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>
Milpitas	120,000

(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 No. 89037, Application No. 58050.