

Decision No. 89433 SEP 19 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE

ORIGINAL

In the Matter of the Application)
of:)

(a) CALIFORNIA CARTAGE COMPANY,)
INC., a corporation, to trans-)
fer, and F & S DISTRIBUTING CO.,)
INC., a corporation, to acquire,)
a prescriptive warehouse opera-)
tive right authorizing storage)
in the City of Vernon, Califor-)
nia.)

Application No. 58256
(Filed July 21, 1978)

(b) F & S DISTRIBUTING CO.,)
INC., a corporation, for an in)
lieu certificate of public con-)
venience and necessity author-)
izing storage of general com-)
modities in the City of Vernon,)
California in the amount of)
60,000 square feet of floor)
space.)

OPINION AND ORDER

California Cartage Company, Inc., (Cal. Cartage), a Cali-
fornia corporation, requests authority to sell and transfer, and F & S
Distributing Co., Inc., (F & S), a California corporation, requests
authority to purchase and acquire, a prescriptive right authorizing
operations as a public utility warehouseman of 6,000 square feet at
Vernon pursuant to Section 851 of the Public Utilities Code. The
total sum for sale and transfer of the prescriptive operative right
involved is \$3,000 payable in cash on consummation.

In addition, F & S, pursuant to Section 1051 of the Public
Utilities Code, seeks a certificate of public convenience and neces-
sity authorizing it to engage in business as a public warehouseman
for storage of general commodities in Vernon in the amount of
60,000 square feet. The sought certificate by F & S is an extension
of and in lieu of the prescriptive warehouse operative right to be

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acquired from Cal Cartage. F & S also requests that the prescriptive operative right be cancelled concurrently with the issuance of the in lieu certificate.

F & S presently leases 40,000 of 60,000 square feet of warehouse space owned by Cal Cartage in Vernon. In the near future, F & S proposes to acquire the remaining 20,000 square feet from Cal Cartage under future lease agreements.

Cal Cartage, in its public warehouse operations, participates in the rates set forth in Warehouse Tariff No. 1, Cal. P.U.C. No. 35, Western Motor Tariff Bureau, Inc., Agent. F & S proposes to adopt and to establish the same rates, rules and regulations as those set forth in the adopted tariff.

F & S declares that the proposed transfer and grant of an extended in lieu certificate will authorize it to conduct a public warehouse business at a location where the same business has heretofore been conducted by Cal Cartage, and at the same rates, rules and regulations. F & S avers that the proposed extension is modest as F & S would be authorized under Section 1051 of the Public Utilities Code, to extend its warehouse storage area by 50,000 square feet over and above the 6,000 square feet requested to be acquired in the prescriptive warehouse operative right. F & S contends that, in essence, the authorization of 60,000 square feet only exceeds the automatic extension by 4,000 square feet. F & S states that an extension of this de minimis nature will have no adverse effect on any other public warehouse, and at the same time, will permit F & S to utilize to the fullest extent the existing warehouse building.

The application was listed on the Commission's Daily Calendar of July 28, 1978. No objection to the granting of the application has been received.

After consideration, the Commission finds that the proposed sale of the property and the transfer of the operative right would not be adverse to the public interest. A public hearing is

not necessary. The order which follows will provide for, in the event the transfer is completed, revocation of the prescriptive operative right held by California Cartage Company, Inc. for the operation of 6,000 square feet of storage or warehouse floor space and granting an in lieu certificate of public convenience and necessity authorizing 60,000 square feet for the storage of general commodities in the City of Vernon, in appendix form to F & S Distributing Co., Inc.

The Commission concludes that the application should be granted and the effective date of this order should be as soon as possible because there is an immediate need for the service.

F & S Distributing 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. On or before January 17, 1979, California Cartage Co., Inc., may sell and transfer and F & S Distributing Co., Inc., may purchase and acquire, the operative right and property referred to in the application.
2. Within thirty days after the transfer, the purchasers 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 carrier operations transferred to show that they have adopted or established, as their own, such rates and rules. The tariff filings shall be made effective not earlier than one day after the effective

date of this order on not less than one day's 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 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. On or before the end of the third month after the transfer, the purchasers 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 year to and including the effective date of the transfer.

5. 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 F & S Distributing 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.

6. The authority to operate in the City of Vernon granted by Decision 82163 dated November 27, 1973, in Application 54321 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3, and the remaining authority will be restated as set forth in Appendix B and made a part hereof.

7. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the prescriptive operative right granted by Decision 82163, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3, as set forth in Appendix A and made a part hereof.

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8. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its 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 the date hereof.

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1978.

President
William S. Gurnea, Jr.

Richard S. Gurnea

Robert W. Gurnea

Clair J. DeBriis
Commissioners

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

F & S Distributing Co., 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>
Vernon	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 California Public Utilities Commission.

Decision No. 89433, Application 58256.

California Cartage Company, 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>
Dominguez (Los Angeles County)	100,000

Note: The prescriptive operative right for the operation of 6,000 square feet held by California Cartage Company, Inc. at Vernon was sold and transferred to F & S Distributing Co., Inc. pursuant to Application 58256.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 82163, Application No. 54321.