

Decision No. 90247

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)
))
ALL CALIFORNIA DISTRIBUTION)
SYSTEMS, INC., a California cor-)
poration, to Sell and Transfer)
to, and of ACDS, INC., a)
California corporation, to)
Purchase and Acquire, the Ware-)
house Prescriptive Rights at)
Los Angeles, California, pursuant)
to Section 1052-53 of the)
California Public Utilities Code.)

Application No. 58688
(Filed February 20, 1979)

OPINION AND ORDER

All California Distribution Systems, Inc. (All California Distribution), a California corporation, operates as a public utility warehouseman at Los Angeles pursuant to a certificate of public convenience and necessity granted by Decision 84866, dated September 3, 1975, in Application 55765. By this application, it seeks authority to sell and transfer, and ACDS, Inc., a California corporation, to purchase and acquire the aforementioned certificate.

The cash consideration is \$500 for the purchase of said operative right.

Applicant (seller) states that the reason it is desirous of selling said right is because of the death of its president, David H. Gould and that the lessor of the premises at 1366 East Seventh Street requested that it either return the building or pay an increase in rent equivalent to double what was being paid, necessitating the movement of the seller to its present temporary location, 1807 East Olympic Boulevard, Los Angeles.

Applicant (seller) alleges that purchaser's officers and directors are well qualified and experienced to conduct the management and operation of a public utility warehouse. Approval of this

application will have no adverse effect upon existing warehouse operations as it (purchaser) intends simply to perpetuate the warehouse operations having been previously conducted by All California Distribution as well as to absorb its current personnel.

According to the financial statements attached to the application, it appears that ACDS, Inc. has the financial resources to conduct the warehouse services involved.

A copy of the application has been forwarded to the Los Angeles Warehousemen's Conference of the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of February 21, 1979. No objection to the granting of the application has been received.

After consideration, the Commission finds that the proposed 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 revocation, in the event the transfer is completed, of the certificate of public convenience and necessity held by All California Distribution Systems, Inc. and the issuance of the certificate of public convenience and necessity in appendix form to ACDS, Inc.

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

The Commission concludes that the application should be granted.

ACDS, 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 September 30, 1979 All California Distribution Systems, Inc. may transfer the operative right referred to in Appendix A of Decision 84866 dated September 3, 1975.

2. Within thirty days after the transfer, the 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 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. On or before the end of the third month after transfer, the 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 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 ACDS, 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 certificate of public convenience and necessity granted to All California Distribution Systems, Inc. by Decision 84866 dated September 3, 1975 is revoked concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall maintain its accounting records in conformance with any applicable Uniform System of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission 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 thirty days after the date hereof.

Dated at San Francisco, California, this 27th day
of APRIL, 1979

John E. Coyne
President
William P. Sturgeon
Richard D. Smith
Charles J. [unclear]
[unclear]
Commissioners

ACDS, 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>
Los Angeles	76,000

(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 90247, Application 58688.