

APR 24 1979

ORIGINAL

Decision No. 90248

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

(a) S.M.D.S., INC., a corpora-)
tion, doing business as SANTA)
MONICA DELIVERY SERVICE, to pur-)
chase, and BROADWAY WAREHOUSES,)
INC., a corporation, to sell)
public utility warehouse oper-)
ating authority, pursuant to)
Section 851, et seq., and Section)
1052 of the California Public)
Utilities Code; and upon approv-)
al thereof,)

Application No. 58703
(Filed February 22, 1979)
(Amended March 2, 1979)

(b) To operate as a public ware-)
houseman in Buena Park, Califor-)
nia; and)

(c) For authorization of BROAD-)
WAY WAREHOUSES, INC. to cease)
operations at Buena Park,)
California.)

OPINION AND ORDER

Broadway Warehouses, Inc. (Broadway), a corporation, possesses a certificate of public convenience and necessity as a public utility warehouseman for the operation of storage or warehouse floor space at Buena Park. By this application, it seeks authority to sell and transfer, and S.M.D.S., Inc., doing business as Santa Monica Delivery Service (S.M.D.S.), a corporation, requests authority to purchase and acquire the aforementioned certificate of public convenience and necessity.

The cash consideration is \$3,000 for the purchase of said operative right.

Broadway desires to discontinue its intrastate warehouse operations to devote full-time to its out-of-state business activities.

S.M.D.S. states that it has had considerable experience in the field of private warehousing operations and a substantial amount of experience in for-hire motor truck operations in California.

According to the financial statements attached to the application, it appears that S.M.D.S. has the financial resources to conduct the warehouse services involved.

S.M.D.S. claims that notice of the contemplated acquisition of warehousing authority by it from Broadway has been given to the existing storers, and none has raised any objection to the discontinuance of the operations by Broadway as a public utility warehouseman at Buena Park.

Applicants certify that a copy of the application has been forwarded to: Los Angeles Warehousemen's Conference, California Trucking Association, 6055 E. Washington Boulevard, Suite 1029, Los Angeles, California.

The application and amendment were listed on the Commission's Daily Calendars of February 28 and March 5, 1979, respectively. No objection to the granting of the application, as amended, has been received.

In the circumstances, the Commission finds that:

1. Public convenience and necessity require that the aforementioned operative right be purchased by and transferred to S.M.D.S., Inc., doing business as Santa Monica Delivery Service.
2. A public hearing is not necessary.
3. The order which follows will provide for revocation of the present certificate held by Broadway Warehouses, Inc., a corporation, and the issuance in its place and stead a new certificate to S.M.D.S., Inc., doing business as Santa Monica Delivery Service, a corporation.
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 as set forth in the ensuing order.

S.M.D.S., Inc., doing business as Santa Monica Delivery Service, 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, Broadway Warehouses, Inc., a corporation, may transfer the operative right referred to in the application to S.M.D.S., Inc., doing business as Santa Monica Delivery Service, a corporation.
2. Within thirty days after the transfer applicant 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 had 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 the 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 S.M.D.S., Inc., doing business as Santa Monica Delivery Service 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 Broadway Warehouses Inc., by Decision 80009, in Application 53167 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall maintain his 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.

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

Dated at San Francisco, California, this 24th day of April, 1979.

John E. Boyer
President

Vernon L. Stinson

Richard D. Howell

Clair T. Friedrich

Arnold M. Jensen
Commissioners

S.M.D.S., INC.
doing business as
SANTA MONICA DELIVERY SERVICE
(a corporation)

S.M.D.S., Inc., doing business as Santa Monica Delivery Service, 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>
Buena Park	50,000

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX)

Issued by California Public Utilities Commission.

Decision 90248, Application 58703.