

Decision No. 90636 JUL 31 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Philip C. Borden, )  
an individual, doing business as )  
Borden Warehouse Company and )  
Borden Trucking, Inc., a Cali- )  
fornia corporation, for the trans- )  
fer of a certificate of public )  
convenience and necessity to oper- )  
ate a public warehouse in the Com- )  
munity of Mira Loma, County of )  
Riverside, State of California. )

Application No. 58958  
(Filed June 27, 1979)

OPINION AND ORDER

Philip C. Borden, an individual, doing business as Borden Warehouse Company, operates as a public utility warehouse at Mira Loma, pursuant to a certificate of public convenience and necessity granted by Decision 81173, dated March 20, 1973. By this application, he requests authority to transfer the public utility warehouseman certificate to Borden Trucking, Inc.

Philip C. Borden is the sole owner of all the capital stock of Borden Trucking, Inc. Philip C. Borden will continue to contribute his expertise in an advisory capacity. Management of the corporation will be assumed by present employees. These employees have demonstrated that they 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 (corporation) intends simply to perpetuate the warehouse operations having been previously conducted by Philip C. Borden, as an individual.

The application was listed on the Commission's Daily Calendar of June 27, 1979. 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 require the services of Borden Trucking, Inc. as a public utility warehouseman in 44,000 square feet of floor space in Mira Loma.

3. It can be seen with reasonable 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 order which follows will provide for, in the event the transfer is completed, the revocation of the certificate of public convenience and necessity held by Philip C. Borden at Mira Loma and the issuance of a certificate of public convenience and necessity in appendix form to Borden Trucking, 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.

Borden Trucking, 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 October 31, 1979, Philip C. Borden, an individual, doing business as Borden Warehouse Company, may transfer the certificate of public convenience and necessity as a public warehouseman referred to in Appendix A of Decision 81173, dated March 20, 1973 to Borden Trucking, Inc.

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 Borden Trucking, 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.

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6. The certificate of public convenience and necessity granted to Philip C. Borden, an individual, doing business as Borden Warehouse Company, by Decision 81173, dated March 20, 1973, 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 JUL 31 1979, at San Francisco, California.

John E. Byron  
President  
William L. Sturgeon  
Robert D. Howell  
Charles J. DeSjahn  
Arnold J. Jones  
Commissioners

Borden Trucking, Inc., a California 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>
Mira Loma	44,000

(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.

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