

Decision No. 91444 MAR 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BUDWAY ENTERPRISES, INC., a)
California corporation, to)
purchase, and STEWART WAREHOUSES,)
INC., a California corporation,)
to sell, its certificated public)
utility warehouseman authority.)

Application No. 59369
(Filed January 7, 1980)

OPINION AND ORDER

Stewart Warehouses, Inc., a California corporation, is presently operating as a public utility warehouseman in Richmond. By this application, it seeks authority to transfer and Budway Enterprises, Inc., seeks authority to acquire the aforementioned operative right.

According to the application, applicant purchaser has the financial resources, experience and personnel to conduct the warehouse services involved. The cash consideration is \$1,000 for the purchase of said operative right.

The application was listed on the Commission's Daily Calendar of January 11, 1980. No objection to the granting of the application has been received.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the operative right presently held by Stewart Warehouses, Inc. and the issuance of a certificate in appendix form to Budway Enterprises, Inc.

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

Budway Enterprises, 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.

The Commission concludes that the application should be granted as set forth in the ensuing order.

IT IS ORDERED that:

1. On or before June 11, 1980, Stewart Warehouses, Inc. may sell and transfer and Budway Enterprises, Inc. may purchase and acquire the operating right more specifically referred to in the application.
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 to 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 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 Budway Enterprises, 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 by Decision 81406, dated May 22, 1973 in Application 53889, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. 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.

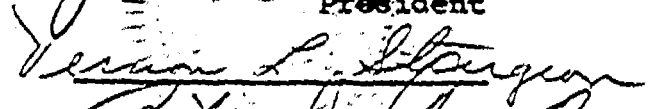
The Executive Director is directed to cause service of certified copies of the order to be made upon Budway Enterprises, Inc. and Stewart Warehouses, Inc., or to mail certified copies thereof to them at their last known addresses as shown in the Commission's records.

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


Dated MAR 18 1980, at San Francisco, California.

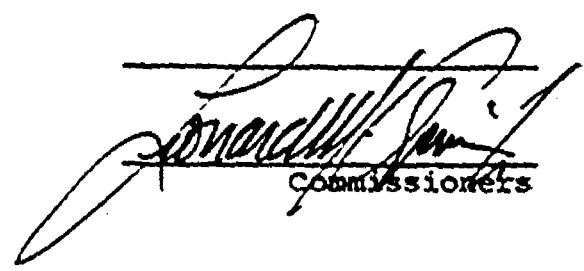


President



Secretary





Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

Budway Enterprises, 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>
Richmond	100,000

(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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