

ORIGINAL

Decision No. 41066

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAN FRANCISCO WAREHOUSE COMPANY for) Application No. 22695
a certificate of public convenience) (Third Supplemental)
and necessity authorizing it to in-)
crease its storage space within the)
City and County of San Francisco.)

and

Related applications of San Francisco)	
Warehouse Company, Gibraltar Ware-) Applications Nos.
houses, Farnsworth and Ruggles,) 23851 (Third Supplemental)
Howard Terminal, J. A. Clark Draying) 23852 (Third Supplemental)
Company, Ltd., A.B.C. Transfer &) 23857 (Third Supplemental)
Storage Company, Inc., and State) 24785 (First Supplemental)
Terminal Co., Ltd. for certificates) 24892 (First Supplemental)
of public convenience and necessity) 25983 (Fourth Supplemental)
for warehouse operations.) 26587 (First Supplemental)

Appearances

Reginald L. Vaughan, for applicants,
L. A. Bailey, for Warehousemen's Association
of the Port of San Francisco, interested
party,
J. L. Dawson, for California Warehousemen's
Association, interested party.

SUPPLEMENTAL OPINION

Applicants are public utility warehousemen operating in San Francisco and Oakland. By prior orders in these proceedings, they were authorized temporarily to enlarge the floor space devoted to public storage service. The temporary authorizations are scheduled to expire December 31, 1947. By supplemental applications, they propose to add part of the temporary space to that used under their permanent operative authority. Applicants also seek certificates of public convenience and necessity for the resulting

aggregate amounts of floor space, which certificates are proposed to supersede and cancel all existing operative rights.¹

A public hearing was had at San Francisco on November 18, 1947, before Examiner Jacopi.

The permanent operative authority of all applicants, except State Terminal Co., Ltd., is based on operations prior to the time a certificate of public convenience and necessity was required before commencement of public storage operations. State Terminal Co., Ltd. possesses only temporary operative authority.

The secretary of the Warehousemen's Association of the Port of San Francisco and the California Warehousemen's Association testified that the San Francisco Bay area has grown rapidly since the outbreak of the war. He said that greater business activity resulting largely from increased population requires maintenance of larger reserve commodity stocks than those required before the war. This, in turn, he stated, has substantially increased the demand for public storage. The secretary explained that when applicants sought authority temporarily to enlarge their operations during the war they believed that the additional space would not be needed in the postwar period.

Other witnesses for applicants testified that adequate warehousing cannot be provided for the public without the use of the additional space herein proposed to be operated. They said that before the war occupancy of the lesser amounts of space which

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The aggregate amounts of square feet of floor space for which certificates are sought are as follows: San Francisco Warehouse Company 631,785; C. L. Tilden, C. L. Tilden, Jr. and Irving S. Culver, doing business as Gibraltar Warehouses 424,000; Farnsworth and Ruggles 117,918; J. A. Clark Draying Company, Ltd. 138,000; A.B.C. Transfer & Storage Company, Inc., 130,000; Howard Terminal 236,282; and State Terminal Co., Ltd. 65,000.

applicants then operated usually ranged from 50 to 70 per cent. At present, they asserted, from 90 to 95 per cent of the proposed increased space is occupied by stored commodities.² The witnesses said that no appreciable reduction in public warehousing needs is anticipated in the foreseeable future.

No one opposed the granting of the supplemental applications.

The record shows that the amount of warehouse space applicants are authorized to operate on a permanent basis is now inadequate to meet public storage requirements. It also shows that operation of the proposed increased space is necessary to meet these requirements. Public convenience and necessity will be served by granting the requested operative authority. New certificates of public convenience and necessity will be issued to supersede both the temporary operative rights heretofore granted in these proceedings and applicants' prescriptive rights.

Applicants are hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given..

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It was pointed out that not all of the remainder of 5 to 10 per cent of the space can be used for storage purposes. For example, floor measurements are taken from wall to wall without deductions for elevators, stairs and other structures, and space is required for aisles and for working area for handling, rehandling and other services incidental to storage.

O R D E R

Applications as above entitled having been filed, a public hearing having been held thereon, the matters having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS HEREBY ORDERED that certificates of public convenience and necessity are hereby granted to the respective applicants herein as follows:

1. San Francisco Warehouse Company, a corporation, authorizing establishment and operation of 631,785 square feet of warehouse floor space in the City and County of San Francisco.

2. C. L. Tilden, C. L. Tilden, Jr., and Irving S. Culver, a copartnership, authorizing establishment and operation of 424,000 square feet of warehouse floor space in the City and County of San Francisco.

3. Farnsworth and Ruggles, a corporation, authorizing establishment and operation of 117,918 square feet of warehouse floor space in the City and County of San Francisco.

4. J. A. Clark Draying Company, Ltd., a corporation, authorizing establishment and operation of 138,000 square feet of warehouse floor space in the City and County of San Francisco.

5. A.B.C. Transfer and Storage Company, Inc., a corporation, authorizing establishment and operation of 130,000 square feet of warehouse floor space in the City and County of San Francisco.

6. State Terminal Co., Ltd., a corporation, authorizing establishment and operation of 65,000 square feet of warehouse floor space in the City and County of San Francisco.

7. Howard Terminal, a corporation, authorizing establishment and operation of 236,282 square feet of warehouse floor space in the City of Oakland, County of Alameda.

IT IS HEREBY FURTHER ORDERED that, upon the establishment of the public utility warehouse service hereinabove authorized, the temporary certificates of public convenience and necessity granted applicants by Decision No. 33615 of October 22, 1940, Decision No. 33777 of January 3, 1941, Decision No. 35359 of May 12, 1942,

Decision No. 36961 of March 28, 1944, and Decision No. 37886 of May 15, 1945, as amended, in these proceedings, and the prescriptive operative rights held by such applicants arising from the operation in good faith of storage or warehouse space on August 2, 1927, as provided in Section 50½ of the Public Utilities Act, shall be, and each such temporary certificate and prescriptive operative right is, hereby revoked and cancelled.

IT IS HEREBY FURTHER ORDERED that in the establishment and operation of the public utility warehouse service hereinabove authorized applicants shall comply with and observe the following service regulations:

1. Applicants shall file a written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
2. Within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public, applicants shall establish the service herein authorized and comply with the provisions of General Order No. 61 by filing, in duplicate, and concurrently making effective appropriate tariffs.

This order shall become effective December 30, 1947.

Dated at San Francisco, California, this 22nd day of December, 1947.

Harold P. Kula
Justice F. C. Cullen
Walter R. Kelle
R. T. Anderson
Commissioners