

ORIGINAL

Decision No. 75338

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

SPEAR ENTERPRISES, INC., a
California Corporation, doing
business as UNITED TRUCK LINE,

)
) Application No. 50754
) (Filed December 17, 1968)
)
)
)

for a certificate of public convenience
and necessity authorizing the operation
of warehouses in the City and County of
Sacramento.

O P I N I O N

Spear Enterprises, Inc., a California corporation, doing business as United Truck Line, requests a certificate of public convenience and necessity to engage in the business of a warehouseman as defined in Section 239(b) of the Public Utilities Code.

The application states that applicant is engaged at present in the business of a private warehouseman in the City of Sacramento at 351 Richards Boulevard. It operates 21,600 square feet of warehouse space at said location. Applicant proposes to dedicate these facilities to public use. Applicant further proposes to store for hire for the public generally all classes of general merchandise except cold storage and applicant will, if granted the requested authority, publish a tariff establishing rates, rules and regulations pertaining to the warehousing business of applicant.

Applicant alleges that public convenience and necessity require the issuance of the requested certificate by reason of the following:

Fred Matt, predecessor to applicant, started in the trucking business in January 1944 with three trucks doing local drayage (and some private warehousing) working out of a small garage in Sacramento. This business grew gradually year by year and as it grew, a larger place from which to operate was needed and acquired. In 1956 Fred Matt leased a warehouse at 1720 R Street, Sacramento, consisting of 10,500 square feet of floor space. This was too large for just the trucking operation but a company named Thompson Holmes was in need of warehouse space and Fred Matt, having this extra space, rented space to it on a square foot basis. A little later, Westinghouse Electric needed some space for warehousing and Fred Matt, still having space available, accommodated them also. Other accounts were added as the years passed. This warehouse finally became too small to accommodate his customers so, in 1961 Fred Matt leased a larger warehouse containing 21,600 square feet of floor space at 851 Richards Boulevard, Sacramento, California, to accommodate the customers he had.

On February 1, 1966, Fred Matt doing business as Matt Transfer and Storage, sold his entire business to United Truck Line. Since this time United Truck Line has operated the business in the same manner as Fred Matt and warehoused for from seven to twelve accounts. The commodities handled for these accounts vary.

Applicant further alleges that it has endeavored to limit the number of customers to be served. There has been continual and expanding space required by them and also other members of the public continue to request the warehousing services of applicant. Applicant has resisted the demands of prospective customers and has otherwise conducted its business so that in its judgment the service performed

is private and not public in nature. After an investigation conducted by the Commission staff, applicant was informed that it was the staff's opinion that applicant's operations were those of a public warehouseman requiring a certificate of public convenience and necessity.

Applicant proposes to charge rates comparable to those set forth in California Warehouse Tariff Bureau, Warehouse Tariff No. 52, Cal. P.U.C. No. 224 which names rules, regulations and charges for storage and incidental handling of merchandise at warehouses in the Sacramento Valley area; however, it will assess and publish rates on appliances at a different charge than shown therein. The proposed charges on appliances are set forth in Exhibit A attached to the application.

Applicant's balance sheet dated October 31, 1968 shows total assets of \$420,387.00 and total liabilities of \$230,939.00. Its income statement for the ten months ended October 31, 1968 discloses a net income before taxes of \$9,732.00.

A copy of the application was served upon the California Warehouseman's Association and was listed on the Commission's daily calendar of December 13, 1968. No protests to the application have been received.

After consideration the Commission finds that:

1. Applicant possesses the experience and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that the proposed service be authorized.
3. A public hearing is not necessary.

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

Spear Enterprises, Inc. is hereby 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 at a particular location. 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Spear Enterprises, Inc., a corporation doing business as United Truck Line, 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 set forth in Appendix A attached hereto and made a part hereof.

2. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities by including in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its operations.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

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

Dated at Los Angeles, California, this 19th day of FEBRUARY, 1969.

William J. Lyons, Jr.
President

Augustus

Frederic R. Morussey

William A. ...

Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

SPEAR ENTERPRISES, INC.
doing business as
UNITED TRUCK LINE

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Spear Enterprises, Inc., a corporation, doing business as United Truck Line, is authorized to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code as follows:

<u>Location</u>	<u>Capacity</u>
City of Sacramento	21,600 Square Feet

The capacity shown above 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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