

Decision No. 75354

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of APPLGATE WAREHOUSE COMPANY, a )  
California corporation, for a )  
certificate of public convenience )  
and necessity authorizing the )  
operation of warehouses in the )  
City and County of Sacramento. )

Application No. 50753  
Filed December 17, 1968

O P I N I O N

Applegate Warehouse Company, a California corporation, 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, at present, is engaged in the business of a private warehouseman in the City of Sacramento at 325 North Fifth Street. It operates 21,300 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 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:

Applicant corporation was formed in 1947 and has operated as a private warehouse without interruption ever since. From 1947 to 1955 it was located at 200 Jiboom Street in Sacramento County.

From 1955 to 1964 its present location was in Sacramento County, which in 1964 was incorporated into the City of Sacramento. At the present time applicant has four to five accounts storing in its premises. While applicant has endeavored to limit the number of customers to be served, there has been continual and expanding space required by them. 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 publish and assess rates on appliances and soap at a different charge than shown therein. The proposed charges on appliances and soap are set forth in Exhibit B attached to the application.

Applicant's balance sheet, dated October 31, 1968, shows total assets of \$185,675.26 and total liabilities of \$97,661.85. Its revenue and expense statement for the 10 months ended October 31, 1968 discloses a net profit from warehouse operations of \$8,208.48.

A copy of the application was served upon the California Warehousemen's Association and was listed on the Commission's daily calendar of December 18, 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.

A public hearing is not necessary.

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

Applegate Warehouse Company 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 Applegate Warehouse Company, a corporation, 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, Applegate Warehouse Company 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 San Francisco, California, this 25th  
day of FEBRUARY, 1969.

William J. Lawrence  
President  
Arthur  
John P. Morssey  
W. H. ...  
...  
Commissioners

Applegate Warehouse Company, a corporation, 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	21,300 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.

Decision No. 75354, Application No. 50753.