

Decision No. 81129**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of WESTAN WAREHOUSE COMPANY, INC.,)
 a corporation, for a Certificate)
 of Public Convenience and Necessity)
 Authorizing Operation as a Public)
 Warehouseman at Turlock, California,)
 and for Authorization to Issue a)
 Promissory Note and a Deed of Trust.)

Application No. 53626
 (Filed October 6, 1972)

O P I N I O N

By this application Westan Warehouse Company, Inc. seeks authority to operate as a public utility warehouseman for the storage of agricultural commodities in 30,000 square feet of warehouse space at Turlock, California.

Applicant has recently purchased warehousing facilities on South First Street in Turlock. These warehouse facilities include a single-story building 600-feet long and 50-feet wide, equipped with machinery for handling stored commodities. These facilities were formerly operated by the previous owner as a warehouse for the storage of agricultural commodities for several storers, but not under the jurisdiction of the Commission.

Applicant proposes to operate its warehouse at Turlock subject to the rates, rules, and regulations set forth in California Warehouse Tariff Bureau Warehouse Tariff No. 38, Cal. P.U.C. No. 203, Jack L. Dawson, Agent, as presently applicable at applicant's warehouse at Westley.

Applicant's latest available financial statement, including a balance sheet as of August 31, 1972 and a profit and loss statement for the eight months' period ending August 31, 1972, is attached to the application and shows a net worth of \$242,212.30.

Applicant's officers and employees have had several years of experience in the storage and handling of agricultural commodities. Applicant's warehouse at Turlock will be operated by experienced personnel.

The above described warehouse facilities are located on a parcel of land, having an area of 40,000 square feet, which applicant has recently purchased for \$38,000. In connection with that purchase, and pursuant to Section 818 of the Public Utilities Code, applicant requests authorization to issue to Bank of America, NT&SA, its promissory note in the amount of \$30,000 in the form of Exhibit B attached to the application. This promissory note is to bear interest at the rate of 8.50 percent per annum, and principal and interest are to be payable in monthly installments of \$432 until August 1, 1980. This promissory note is to be secured by a deed of trust, and applicant requests, pursuant to Section 851 of the Public Utilities Code, authorization to issue for the benefit of Bank of America, NT&SA, its deed of trust in the form of Exhibit C attached to the application. The property proposed to be encumbered is described in Exhibit C attached to the application.

The warehouse facilities to be operated by applicant at Turlock have been serving and are serving several storers of agricultural commodities.

After consideration the Commission finds that (1) public convenience and necessity require or will require the operation of storage space by applicant as a public utility warehouseman for the storage of agricultural commodities in Turlock, and (2) the issue of the securities herein authorized is reasonably required for the purposes specified herein and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Based on these findings the Commission concludes that the application should be granted. Public hearing is not necessary.

Westan Warehouse Company, 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, these 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Westan Warehouse Company, Inc., 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. 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 and twenty days after the effective date hereof, applicant shall establish the service and amend its tariffs on file with the Commission to reflect the authority granted herein.

- (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.

3. The prescriptive operative right set forth in Appendix A attached hereto shall supersede the prescriptive operative right shown in Appendix A of Decision No. 72664 dated June 27, 1967 in Application No. 49434, which operative right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

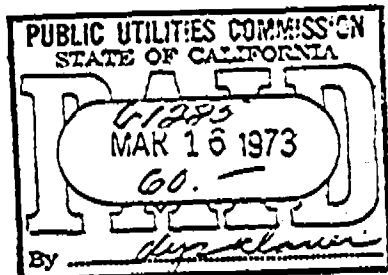
4. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities by including in its tariff a rule reading substantially as follows:

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.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$60. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of MARCH, 1973.



Vernon L. Spurgeon
President
William Spurgeon Jr.
William Spurgeon Jr.
Commissioners

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

Westan Warehouse Company, Inc. possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
Westley and Vicinity (Stanislaus County)	18,656

Westan Warehouse Company, 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, restricted to Agricultural Commodities, as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
Turlock	30,000

(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.

Decision No. **81129**, Application No. 53626.