

Decision No. 81173

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of PHILIP C. BORDEN, an individual,
doing business as BORDEN WAREHOUSE
CO., for a certificate of public
convenience and necessity to operate
a public warehouse in the Community
of Mira Loma, County of Riverside,
State of California.

Application No. 53784
(Filed January 12, 1973)

O P I N I O N

By this application Philip C. Borden, doing business as Borden Warehouse Co., seeks authority to conduct operations as a public utility warehouseman in 44,000 square feet of floor space located in Mira Loma, county of Riverside.

Applicant operates a private warehouse for storage of goods and commodities for five customers.

Applicant has been conducting operations as a warehouseman in the community of Mira Loma for a substantial period of time. Applicant has always considered these operations to be that of a private warehouse, and as such not under the jurisdiction of this Commission. However, after reviewing his operations in the light of a pamphlet issued by the staff of this Commission titled "Summary of the Law Pertaining to Warehousemen" dated February 1, 1968, applicant is not certain that his operations are that of a private warehouseman.

Applicant is desirous of bringing his operations into compliance with the rules and regulations of this Commission. Therefore, he has filed this application. Applicant seeks nothing

more than to be able to continue serving those persons that applicant has served for a substantial period of time in the past. Applicant alleges that approval of this application cannot in any way adversely affect the operations of other existing public warehouses in that approval thereof would merely allow the applicant to perpetuate his existing business operation. Applicant at this time does not intend to expand. The provisions for expansion contained in Section 1051 of the Code will allow for such normal business expansion as may result in the foreseeable future.

After consideration the Commission finds that the proposed warehouse operations would not be adverse to the public interest and that a certificate of public convenience and necessity be issued to applicant, and concludes that the application should be granted. A public hearing is not necessary.

Applicant 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 Philip C. Borden, doing business as Borden Warehouse Co., 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 and shall include 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 San Francisco, California, this 20th day of MARCH, 1973.

Vernon L. Sturgeon
President
William J. Lyons, Jr.
Thomas Moran
Commissioners

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

PHILIP C. BORDEN
(an individual)
doing business as
BORDEN WAREHOUSE CO.

Philip C. Borden, doing business as Borden Warehouse Co., 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>
Mira Loma	44,000

(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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