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Decision No. 81374

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of OVERMYER OF SAN LEANDRO, a
corporation, for a Certificate of
Public Convenience and Necessity
authorizing operation of an
additional 60,000 square feet of
space at San Leandro, California.

Application No. 53627
(Filed October 6, 1972)

O P I N I O N

By this application Overmyer of San Leandro, a corporation, requests a certificate of public convenience and necessity authorizing operation of 60,000 square feet of warehouse floor space by applicant at San Leandro, California, without limiting the expansion permissible under Section 1051 of the Public Utilities Code. Applicant proposes to store and handle general commodities in this additional space. Including the space in which applicant is authorized to operate pursuant to its prescriptive right, the granting of this application will enable applicant to operate in 80,000 square feet of floor space.

There were no protests to the application. Applicant is presently operating as a public utility warehouseman in San Leandro.

Applicant will utilize four modern single-story buildings located at 2054 Burroughs Street, San Leandro.

Applicant's business in San Leandro has increased over the years. Currently it is taking advantage of the provision in Section 1051 of the Public Utilities Code, which allows applicant to expand its warehouse floor space by 50,000 square feet.

Additional storers have requested the service of applicant, and their needs, combined with the increasing needs of applicant's present customers, require the proposed services.

After consideration the Commission finds that the proposed expansion would not be adverse to the public interest; a grant of this application will not have any significant effect on the environment and therefore does not require an Environmental Impact Report nor payment of any fee in connection therewith; and concludes that it should be authorized. A public hearing is not necessary.

Applicant is 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. 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 Overmyer of San Leandro, 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 twenty days after the effective date hereof, applicant shall establish the service herein authorized and inform the Commission of such fact.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the prescriptive operative right set forth in order dated July 26, 1960 in Case No. 6639, which operative right is revoked effective concurrently with the effective date of the notice 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 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.

5. Accounting records are to be kept in accordance with the "Uniform System of Accounts for Public Utility Warehousemen - Merchandise" as prescribed by the California Public Utilities Commission.

6. The Commission may require the production within this State, at such time and place as it designates, any books, accounts, papers, or records kept by the public utility in any office or space throughout this state.

7. Reports submitted to the Commission, including annual reports, are to be realistic and accurate.

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

Dated at San Francisco, California, this 15th day of MAY, 1973.

William L. Symons, Jr.
President
[Signature]
[Signature]
[Signature]
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Overmyer of San Leandro, a corporation, 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>
San Leandro	80,000

(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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