

**ORIGINAL**Decision No. 81784

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
JAY N. CO., INC. for a certificate  
of public convenience and necessity  
to operate a public warehouse in the  
City of Oakland, County of Alameda,  
State of California.

Application No. 54024  
(Filed May 11, 1973;  
amended May 22, 1973)

O P I N I O N

Jay N. Co., Inc., 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 for the storage of new and used furniture.

The application states that:

"Applicant is now and has been for a substantial period of time conducting an operation as a warehouse for the storage of new and used furniture at applicant's principal place of business, identified hereinabove. Applicant's operations has heretofore been restricted to serving a limited number of customers. Applicant is presently performing a storage and/or warehouse service for approximately four accounts in some 15,000 square feet of space located in a building which serves as its principal place of business, at 5601 San Leandro Street, Oakland, California 94621."

Applicant alleges that public convenience and necessity require the granting of a certificate to conduct operations as a public warehouseman. Applicant has been conducting operations as a warehouseman for the storage of certain goods and commodities in the city of Oakland, county of Alameda, for a substantial period of time. Applicant has always conducted these operations under the good faith assumption that it was operating as a private warehouseman, and

thus immune from supervision and regulation of this Commission. Recently, a member of the Commission's staff made a study of applicant's operation and as a result thereof, reached the conclusion that applicant's warehouse operation was that of a public warehouseman and, as such, required authority from this Commission. Further, applicant was advised by this Commission to make application for a certificate of public convenience and necessity to conduct operations as a public warehouseman.

The application states that applicant's operating personnel are thoroughly familiar with the conduct of a warehouse operation.

Applicant also conducts operations as a highway contract and household goods carrier pursuant to permits issued by this Commission.

Applicant's balance sheet as of February 28, 1973 which is attached to the application discloses assets of \$67,179.29 offset by liabilities of \$14,427.39 resulting in capital of \$52,751.90. Its income statement for the eight-month period ending February 28, 1973 discloses a net income before federal income taxes of \$4,828.45.

The application was served upon the California Warehousemen's Association. There are no protests.

#### Findings

1. Applicant possesses the experience and financial resources to institute and maintain the proposed service.
2. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.
3. Public convenience and necessity require that the proposed service as a warehouseman be authorized.
4. A public hearing is not necessary.

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

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, these rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled 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 Jay N. Co., Inc., a corporation, authorizing it 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 set forth in Appendix A, attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to file annual reports of its operations.
- (b) Within one hundred twenty days after the effective date of this order, applicant

shall establish the authorized service 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 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-Series.

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

Dated at San Francisco, California, this 21st day of AUGUST, 1973.

Vernon L. Stinson  
President  
William J. Quinn  
D. W. Holmes  
[Signature]  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Jay N. Co., 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 new and used furniture, as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Oakland	15,000

(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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