

ORIGINAL

Decision No. 81903

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ROY QUERIO and MELVIN QUERIO,
doing business as RO-MEL CO., to
transfer a prescriptive warehouse
operating right from the City of
Walnut Creek to the City of Concord.

Application No. 54171
(Filed July 16, 1973)

O P I N I O N

Roy Querio and Melvin Querio, doing business as Ro-Mel Co., (applicants) presently hold a prescriptive right to operate a 6,250 square foot public utility warehouse in the city of Walnut Creek.

Applicants request revocation of their present prescriptive right and the concurrent issuance of a certificate of public convenience and necessity to operate a 6,250 square foot warehouse in the city of Concord without limiting the expansion permissible under Section 1051 of the Public Utilities Code.

Applicants allege that the Walnut Creek premises have been sold and that the warehouse operations must be relocated; that recent road construction in the immediate vicinity has substantially reduced the desirability of applicants' building as a storage unit and that the proposed new site is but three miles away from the present location and will be more attractive to potential customers without detracting or reducing the service now offered to existing customers.

A copy of the application was mailed to the California Warehousemen's Association. The application was listed on the Commission's Daily Calendar. No protests have been received.

After consideration the Commission finds:

1. Applicants operate a 6,250-square foot warehouse in the city of Walnut Creek under a prescriptive right granted August 16, 1960 in Case No. 6851.

2. Applicants' presently occupied premises have been sold and must be vacated.

3. Public convenience and necessity no longer require continued warehouse operations in the city of Walnut Creek.

4. Public convenience and necessity require that the application should be granted as set forth in the ensuing order.

5. Applicants should be granted a new certificate of public convenience and necessity and the prescriptive operative rights which authorized operations in Walnut Creek should be revoked.

6. That with reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

7. The proposed move would not be adverse to the public interest. After consideration the Commission concludes that the application should be granted. A public hearing is not necessary.

Roy Querio and Melvin Querio, doing business as Ro-Mel Co. are 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 holders 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 Roy Querio and Melvin Querio, doing business as Ro-Mel Co., authorizing them 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, applicants 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, applicants shall file a written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate they will be required, among other things, to file annual reports of their operations.
- (b) Within one hundred twenty days after the effective date of this order, applicants 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the prescriptive operative authority granted applicants on August 16, 1960 in

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Case No. 6851, which authority is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 25th
day of SEPTEMBER, 1973.

Vernon L. Starnes
President
William J. Starnes
John J. Starnes
John J. Starnes
Commissioners

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Appendix A

ROY QUERIO AND MELVIN QUERIO
(a partnership)
doing business as
RO-MEL CO.

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Roy Querio and Melvin Querio, doing business as Ro-Mel 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>
Concord	6250

(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. 81903, Application No. 54171.