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Decision No. 82232

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of WAREHOUSE WEST, a California
corporation, for authorization
to acquire the Certificate of
Public Convenience and Necessity
of CAPITOL WAREHOUSE SERVICES,
INC., at Hayward, Calif., for
transfer of public warehouse
operations from Hayward to San
Leandro, Calif., and for a Certi-
ficate of Public Convenience and
Necessity authorizing operation
of 60,000 square feet of space
at San Leandro.

Application No. 54314
(Filed September 12, 1973;
amended October 18, 1973)

O P I N I O N

Warehouse West, a California corporation, requests authority to acquire through a public sale by the Internal Revenue Service, for \$3,100.75 cash, the certificate of public convenience and necessity authorizing operations as a public utility warehouseman of 130,000 square feet of storage space in Hayward. The certificate was granted to Capitol Warehouse Services, Inc. (Capitol) by Decision No. 80283 dated July 25, 1972 in Application No. 53143. Applicant also requests authorization, pursuant to Section 1051 of the Public Utilities Code of the State of California, to operate as a public warehouseman of general commodities in 60,000 square feet of warehouse floor space in San Leandro, California. Applicant further requests authorization to cease operations in Hayward and to transfer the operations formerly performed by Capitol at Hayward to San Leandro. There are no protests.

The application, as amended, states that at a public sale held on June 8, 1973 by the Internal Revenue Service, applicant was the successful bidder for the purchase of the certificate of public convenience and necessity held by Capitol. That sale was made subject to applicant's obtaining authorization from the Public Utilities Commission for the transfer to applicant of the said operating right. Applicant intends to render service as a public warehouseman rather than as a private warehouseman, and to expand its service to the public.

Applicant alleges that public convenience and necessity no longer require operation by applicant in Hayward for the reason that a very substantial increase in public warehouse facilities has recently occurred in Hayward with the beginning of a new operation by Thompson Bros., Inc., pursuant to authorization granted by the Commission in Decision No. 80114 dated May 31, 1972.

The application, as amended, further states that applicant and its officers have had several years of experience in the operation of a private warehouse in Oakland and San Leandro and will be able to give satisfactory service to the public. Applicant is presently operating at 2031 Burroughs Avenue as a private warehouseman with several storers. Applicant leases space in a modern single-story building of tilt-up construction, with concrete floors, 30-foot ceilings, and fully sprinklered. Applicant has railroad spur facilities as well as truck-loading facilities. Applicant has an adequate supply of forklift trucks, pallets, and other storage and handling machinery and equipment.

Applicant proposes to operate in San Leandro under the rates, rules, and regulations contained in California Warehouse Tariff Bureau Warehouse Tariff No. 48-A, Cal. P.U.C. No. 253, Jack L. Dawson, Agent.

Exhibit A, attached to the application, contains copies of applicant's balance sheet as of June 30, 1973 and its profit and loss statement for the six-month period ending June 30, 1973. The balance sheet shows total assets of \$64,715.00, total liabilities of \$34,463.76, and stockholders' equity of \$30,251.24. Its profit and loss statement shows net income before taxes of \$13,613.73.

After consideration, the Commission finds that:

1. The proposed transfer of the certificate would not be adverse to the public interest.
2. Public convenience and necessity no longer require the operation of applicant in Hayward.
3. Public convenience and necessity require the operation of applicant as a public utility warehouseman in 60,000 square feet of space in San Leandro.
4. With reasonable certainty, the project involved in this proceeding will not have a significant effect on the environment.
5. A public hearing is not necessary.

The Commission concludes that the application should be granted.

Warehouse West 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. On or before March 1, 1974, and upon the condition that Warehouse West shall pay the cost of moving the property of the customers of Capitol Warehouse Services, Inc. to a warehouse of their choice in the Hayward area, Warehouse West may acquire the operative rights referred to in the application.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Warehouse West shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that it has adopted or established, as its own, the rates and rules. 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 transfer. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-Series. Failure to comply with the provisions of General Order No. 61-Series may result in a cancellation of the operating authority granted by this decision.
4. On or before the end of the third month after the transfer, Warehouse West shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Warehouse West, a corporation, authorizing operations 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.

6. The certificate of public convenience and necessity granted by Decision No. 80288 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Warehouse West shall maintain its accounting records in conformance with any applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 7th day of DECEMBER, 1973.

Vernon L. Sturgeon
President
William J. Lyrique, Jr.
[Signature]
[Signature]
[Signature]
Commissioners

Warehouse West, 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	60,000

(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. 82232, Application No. 54314.