

Decision No. 82391

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of FILBERT STREET WAREHOUSE, a
corporation, for a certificate of
public convenience and necessity
to operate a warehouse in the City
and County of San Francisco, State
of California.

Application No. 54152
(Filed July 6, 1973)

Marquam C. George, Attorney at Law, for
Filbert Street Warehouse, applicant.
W. P. Campana, for the Commission staff.

O P I N I O N

Applicant Filbert Street Warehouse, a corporation, requests a certificate of public convenience and necessity to operate as a warehouseman in the city and county of San Francisco in and on 75,000 square feet of floor space. The application was noticed in the Commission's Daily Calendar of July 11, 1973. Copies of the application were served on the California Warehousemen's Association and on all public utility warehousemen, some 17 in number, located in the city and county of San Francisco of whom applicant had knowledge. No protests to the application were received. A hearing was held on the matter before Examiner Pilling on December 10, 1973 at which time the matter was submitted.

Applicant's president appeared and testified for applicant as follows: Applicant and its predecessor company have been operating as a private warehouse company since 1951. Applicant is presently conducting its warehouse operations from two locations on rail sidings across the street from each other approximately a block from the Embarcadero. Each of the locations has truck loading and unloading facilities. At one location applicant operates 12,000 square feet of warehouse space and at the other 11,000 square feet.

Applicant's president and his wife are the sole stockholders of applicant and are also the owners and sole stockholders of Colma Drayage which is a truck line holding several truck operating authorities issued by this Commission. Colma Drayage was started in 1947. The great majority of applicant's customers are also customers of Colma Drayage which initiated the contact between applicant and its customers. Presently, applicant has more than 21 customers at its two warehouses who store a variety of commodities such as starch, adhesives, resin, candy, coconut, chocolate, KD cartons, cork, bottle caps, foil capsules, canned goods, terry cloth, machinery, chemicals, pot cleaners and scouring pads, paint pigment, empty wooden barrels, and pickles in barrels. Many of its storers are of long standing, one going back to 1946 and one to 1948. Applicant offers and will offer the accessorial services of packing, sorting, and labeling in addition to its warehouse service. Applicant conducts business at two different locations, each on a single floor, because of the need to separate the storage of commodities such as chemicals, which may contaminate foodstuff, from foodstuff. While applicant has a combined area at present of only 23,000 square feet of storage space, it plans to enlarge and consolidate its storage facilities with the Colma Drayage terminal on property applicant intends to acquire for that purpose. It estimates that it will require 75,000 square feet of storage space exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code. If the application is granted, applicant will join the San Francisco Warehousemen's Association Tariff Bureau and charge the applicable rates therein. For each of the fiscal years ending August 31, 1968 through 1972 applicant had a net profit of \$4,890, \$78, \$1,174, and \$10,129, and a loss of \$105, respectively. As of August 31, 1972 applicant had a net worth of \$30,005.

The application was supported by public witnesses representing four of the several companies which presently store their merchandise in applicant's facilities and who assert they will use applicant's public warehouse facilities if the application is granted. The first supporting witness, representing Wheeler and Miller, customhouse brokers and ocean freight forwarders, testified that his company represents as port agent various importers and exporters who have need of warehousing their wares in San Francisco and on whose behalf his company orders goods to storage as well as ordering goods out of storage. His company started ordering goods to be stored in applicant's facilities in 1965 and has used applicant's facilities ever since. His company also uses the services of Colma Drayage for delivery to applicant's warehouse and for distribution out of the warehouse. His company desires to use applicant's service in the future on a public utility basis and if the application is granted, his company will use those services. The representative of National Starch and Chemical Corp. testified that his company stores between 200,000 and 250,000 pounds per month of food starches, adhesives, and resins with applicant; that his company has experienced little or no damage to its stored products when stored with applicant, especially its starches which are packaged in bags and highly susceptible to damage; that applicant's rail spur is especially convenient to receiving inbound shipments; and that his company will use the services of applicant if the application was granted. The import manager for Latchford Package Co. testified that his company stored wine accessories with applicant; that one of the stored items is cork in bags which are five feet high and weigh 87 pounds each; that his company uses the services of Colma Drayage for both pickup and delivery of its stored merchandise and has found this pickup and delivery service in coordination with the storage service is just what his company needs; and that his company desires to continue to use the services of applicant on a public utility basis. A management consultant to several producers of candy testified that his

recommendations were generally accepted by his clients and that he intended to recommend to his clients that they use applicant's proposed warehouse service in connection with Colma Drayage to satisfy their warehouse and transportation needs in the area because of his previous excellent experience as a manufacturer's agent in his use of applicant for the storage of seasonal and presold orders of candy; that both Colma and applicant were extremely adept at handling candy.

After consideration the Commission finds that applicant possesses the necessary experience, facilities, and financial ability to conduct the proposed warehouse operation and that public convenience and necessity require that applicant be authorized to conduct the operations of a warehouseman and concludes that the application should be granted in accordance with the ensuing order. The Commission further finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Filbert Street Warehouse 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 Filbert Street Warehouse, 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 is the date hereof.

Dated at San Francisco, California, this 29th
day of JANUARY, 1974.

Veron L. Stenger
President
William Symon Jr.

[Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Filbert Street Warehouse, 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>
City and County of San Francisco	75,000

(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. 82391, Application No. 54152.