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**ORIGINAL**

Decision No. 83025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
J & R WAREHOUSES & SERVICE CO., INC.,  
a corporation, for a certificate of  
public convenience and necessity to  
operate a warehouse in the City of  
Emeryville, California.

Application No. 54784  
(Filed April 4, 1974)

O P I N I O N

J & R Warehouses & Service Co., Inc. 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. It presently holds authority to do business as a warehouseman as defined in Section 239(c) of the code and operates 75,000 square feet of warehouse space for the storage of food commodities in Emeryville pursuant thereto. The sought authority is for 75,000 square feet of warehouse space, exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the code, in Emeryville for the storage of general commodities.

The application states the applicant has had considerable experience in warehouse operations; that it has had numerous requests to expand its operations in Emeryville to provide a general warehouse service as defined in Section 239(b) of the code; that the rates and charges to be assessed for the sought service will be on the level of the prevailing rates in the San Francisco Bay area; and that it has the financial ability to provide such additional facilities as the proposed service may require.

Applicant's balance sheet as of December 31, 1973, which is attached to the application, discloses assets of \$191,358.96 offset by liabilities of \$34,054.44 resulting in a net worth of \$157,304.52. Its profit and loss statement for the 11-month period ending December 31, 1973 discloses a net profit before income taxes of \$33,134.47.

The application was served in accordance with the Commission's procedural rules. There are no protests. An in-lieu certificate incorporating both applicant's present and sought authorities to operate as a warehouseman in Emeryville will be issued.

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 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, 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 J & R Warehouses & Service Co., Inc. authorizing it to operate as a public utility warehouseman, as defined in Sections 239(b) and (c) 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 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.

3. 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:

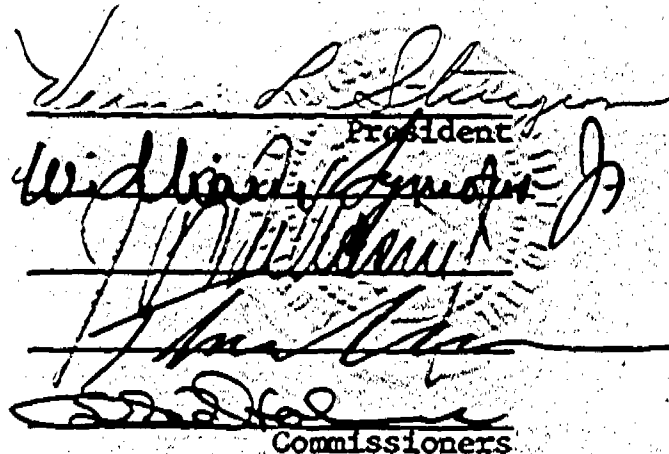
**Hazardous or Toxic Commodities:**

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.

4. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 79270 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(c).

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

Dated at San Francisco, California, this 25th  
day of JUNE, 1974.

  
President  
Commissioners

J & R Warehouses & Service 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 Sections 239(b) and 239(c) of the Public Utilities Code, for the operation of storage or warehouse floor space as follows:

<u>Under Section</u>	<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
239(b)	Emeryville	*75,000
239(c)	Emeryville	*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.

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