

Decision No. 83687

ORIGINAL

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  
Hayward, California.

Application No. 55153  
(Filed September 3, 1974)

O P I N I O N

J & R Warehouses & Service Co., Inc., a Wisconsin corporation qualified to do business in the State of California, requests authority to transfer the location of its public warehouse from the city of Emeryville to the city of Hayward.

Applicant is engaged in business as a public warehouseman for the operation of storage or warehouse space in and on 75,000 square feet of floor space as defined in Section 239(b) of the Public Utilities Code and for the operation of storage or warehouse space in and on 75,000 square feet of floor space as defined in Section 239(c) of the Public Utilities Code in the city of Emeryville under authority of a certificate of public convenience and necessity granted by Decision No. 83025 in Application No. 54784 dated June 25, 1974.

Applicant's present public warehouse is located at 5745 Peladeau Street, Emeryville. Applicant has been notified that its lease on the property will be terminated on or about December 31, 1974. Applicant's officers and stockholders propose to construct a modern, concrete, fully insulated warehouse building with temperature control containing a modern sprinkling system, an office, and 16 docks. The dimensions of the proposed building will be 440 feet by 240 feet with 25 foot ceilings. Applicant will lease the building from its officers and stockholders.

Applicant alleges that the operations to be conducted in Hayward will be for the same persons and under the same conditions as are presently being conducted in Emeryville. Applicant further alleges that by reason of its past operations, it gained the expertise and experience necessary to operate a warehouse operation which will be responsive to the needs of the general public.

Copies of the application were mailed to four public warehousemen operating in Hayward and the California Warehousemen's Association. The application appeared on the Commission's Daily Calendar of September 10, 1974. No objections to the granting of the application have been received.

Findings

1. The proposed transfer of the location of the public warehouse would not be adverse to the public interest.
2. Public convenience and necessity no longer require operation of the Emeryville warehouse.
3. Public convenience and necessity require that applicant operate a public warehouse at Hayward.
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. The order which follows shall provide for the revocation of the certificate presently held by applicant and the issuance of a new certificate to applicant.

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., a corporation, authorizing it to operate as a public utility warehouseman, as defined in Section 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. 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. 83025, which operative right is revoked subject to the following conditions:

- (a) Applicant shall cause to be prepared and to be mailed or otherwise delivered to each of its storage patrons, on or before twenty days after the effective date of this order, a true and complete copy of this order.
- (b) Applicant shall, at the direction of the owner of any property remaining in storage at its Emeryville warehouse, transport such property to any available public warehouse at the expense of applicant and at no expense or risk to the owner of the property transported.
- (c) Applicant shall, promptly on removal of all stored property from its Emeryville warehouse:
  - 1. File with the Commission a verified statement that it has fully complied with Conditions a and b above, and,
  - 2. Cancel its rates on file with the Commission governing warehouse operations at Emeryville.

3. J & R Warehouses & Service Co., Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations herein to show that it has made said rates and rules effective at the new location. 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 commencement of business at the new address. 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. 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 hereof, applicant shall file a written acceptance of this certificate, including all the provisions and conditions thereof.
- (b) 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.

5. 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.

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

Dated at San Francisco, California, this 16<sup>th</sup>  
day of NOVEMBER, 1974.

Vernon L. Sturges  
President  
William J. Quince  
Robert E. Morland  
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

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 Section 239(b) and 239(c) 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>
Hayward	105,000

(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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