

**ORIGINAL**Decision No. 84480

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

C. J. FIGONE & SON, INC., a  
 California corporation, for a  
 certificate of public convenience and necessity to operate  
 as a warehouseman providing cold  
 storage and freezer storage  
 facilities for meat and meat  
 products and other food commodities in the City and County of  
 San Francisco, California.

Application No. 55630  
 (Filed April 16, 1975)  
 (Amended April 23, 1975)

OPINION AND ORDER

C. J. Figone & Son, Inc., a corporation, seeks a certificate of public convenience and necessity authorizing operations as a public utility warehouseman in 10,900 square feet of space in San Francisco.

Applicant proposes to provide specialized cold storage and freezer storage for meat and meat products and other commodities as defined in Section 239(c) of the California Public Utilities Code in said city in the amount of (1) freezer square feet: 6900, (2) blast freezer (also known as "sharp") square feet: 400, and (3) cooler square feet: 3600. Applicant states that new facilities will be constructed on a vacant lot in San Francisco's industrial district and the building will be two stories consisting of pre-stressed concrete floors and beams, with concrete block exterior. According to applicant, the building will be specifically designed for operation of cold storage facilities; truck and trailer receiving and shipping dock facilities on the first floor, with freight elevators connecting the first and second floors.

Applicant states that the first floor shall contain a 4,700 square foot freezer (minus 10 degrees Fahrenheit) and a 400 square foot blast freezer (minus 45 to minus 50 degrees Fahrenheit); and the floor to ceiling height for the first floor freezer areas shall be 15 feet. Applicant alleges that the remainder of the first floor area shall be taken up by dry storage, passageways, freight elevators and stairs and the second floor shall contain a 3,600 square foot cooler (plus 34 degrees Fahrenheit) and a 2,200 square foot freezer (minus 10 degrees Fahrenheit). Applicant avers that the floor to ceiling height of the second floor shall be 20 feet and the remainder of the second floor area shall be taken up by a defrost area, passageways, freight elevators and stairs to the first floor and to a mezzanine which will house employee facilities, including rest rooms and lunch rooms.

Applicant contends that bulk cold storage and freezer facilities in the City and County of San Francisco and the San Francisco Bay Area have declined in physical capacity over the past ten years while public demands and requirements for such facilities have increased, both within the San Francisco Bay Area, and nationwide. Applicant states that September 30, 1974 data compiled by the United States Department of Agriculture indicate a 40 percent gain in 1974 in cold storage over the year 1973. Applicant avers that the existing facilities in San Francisco handle only "bulk" and/or "boxed" frozen meat and meat product storage and necessitate that said products be frozen in minimum quantities consisting of 1700 pound bins containing approximately 100 units of meat cuts frozen in one solid block. Applicant alleges that its proposed facilities will be able to handle the storage and/or individually fast freeze ("blast" freeze) of fresh loose meat cuts and meat products of any size, as small as 8 pounds and as large as 17 to 20 pounds.

Exhibit "B" attached to the application contains applicant's financial statements which indicate that it has the means to construct and operate the proposed cold storage warehouse.

Copies of the application were mailed to Merchants Ice & Cold Storage, U.S. Cold Storage and Growers Refrigeration Co., Inc. The application and amendment thereto were listed on the Commission's Daily Calendar of April 17 and 24, 1975. Pacific Far East Line, Inc., has informed the Commission by letter that it supports the application. No objection to the granting of the application, as amended, has been received.

In the circumstances, the Commission finds that:

1. Public convenience and necessity require applicant's service as a public utility warehouseman in 10,900 square feet of floor space in San Francisco.

2. With reasonable certainty, the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application, as amended, should be granted. A public hearing is not necessary.

C. J. Figone & Son, Inc., 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.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to C. J. Figone & Son, Inc., a corporation, authorizing it to operate as a public utility warehouseman, as defined in Section 239(c)

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 to do so 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) On or before January 1, 1976, 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.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of May, 1975.

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President  
*William Lyons Jr.*  
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*Leonard Ross*  
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Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

C. J. Figone & Son, 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(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>
San Francisco	10,900

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX A)