

CAR/AP

Decision No. 87350

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Wagner Distribution Services, Inc.
for a Certificate of Public Convenience
and Necessity to increase its authorized
public utility warehousing space.

Application No. 56332
(Filed March 16, 1976)

OPINION AND ORDER

Wagner Distribution Services, Inc. (applicant) is a California corporation presently operating as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code. Operations are conducted under a prescriptive right acquired by the authority granted in Decision No. 83898 dated December 30, 1974 in Application No. 54264 which provides for operations at Anaheim utilizing a maximum of 50,000 square feet of space exclusive of the expansion permissible under Section 1051.

By this application, applicant seeks a certificate of public convenience and necessity under Section 1051 to increase its permissible public utility warehouse space from 50,000 square feet to 200,000 square feet. Applicant's facilities available for such service are located at 1201 East Cerritos Avenue, Anaheim, California, and consist of approximately 160,000 square feet of available warehouse space situated on 8.21 acres of land. It is located on a rail spur and has truck-high loading facilities. An additional 40,000 square feet of warehouse space is available under lease at warehouse facilities located at 1400 Allec Street, Anaheim, California.

Applicant alleges that in the relatively short time it has been holding itself out as a public utility warehouseman, depositors' demands and requirements have reached a point where applicant's authorized warehouse space is utilized to capacity, and it has been receiving repeated requests for the storage of additional property.

A copy of the application was served on the Los Angeles Warehousemen's Conference of the California Trucking Association. As a result, Packers' Cold Storage, Inc. (Packers) filed a protest on April 16, 1976 and requested a hearing. However, by a letter dated March 29, 1977 Packers withdrew its protest. There are no other protests.

We find that:

1. Public convenience and necessity require that applicant's proposal be authorized.
2. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted. A public hearing is not necessary. The effective date of this order should be the date hereof because there is an immediate need for this service.

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.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Wagner Distribution Services, Inc., 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 regulations. Failure to do this 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 amend tariffs on file with the Commission to reflect the authority granted.
- (c) The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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 61-Series.

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3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity authorized by Decision No. 83898 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) above.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17th
day of MAY, 1977.

Robert Belmont

President

William S. Quayle

Thomas L. Stinson

Richard W. Howell

Commissioners

Wagner Distribution Services, 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) of the Public Utilities Code for the operations of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Anaheim	200,000

(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 87350, Application 56332.