

ORIGINAL

Decision No. 91943 JUN 17 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of J & R WAREHOUSES & SERVICE)
CO., INC., a Wisconsin Corpora-)
tion, qualified to do business in)
the State of California, for a)
certificate of public convenience)
and necessity to add to, extend,)
or otherwise increase warehouse)
storage space for a public ware-)
house presently being operated)
in the City of Hayward, Cali-)
fornia, pursuant to the provisions)
of Section 1051 of the California)
Public Utilities Code.)

Application No. 59609
(Filed April 23, 1980)

OPINION AND ORDER

J & R Warehouses & Service Co., Inc., a Wisconsin corporation, qualified to do business in the State of California (J & R), requests authority to increase its storage or warehouse floor space from 105,000 to 220,000 square feet, said 115,000 square feet being in excess of the 50,000 square feet allowed for expansion under Section 1051 of the Public Utilities Code of California. The warehouse facility is located in the City of Hayward.

Applicant states that its present facility is utilized to capacity. The warehouseman has had numerous requests from both present and potential customers for additional floor space in order to store their merchandise. J & R intends to meet these needs by constructing a modern 115,000 square foot addition to its present warehouse structure.

A copy of the application was mailed to the California Warehousemen's Association. The application was listed on the Commission's Daily Calendar of April 24, 1980. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that:

1. Public convenience and necessity require additional warehouse facilities at Hayward.
2. Public convenience and necessity require the services of applicant as a public utility warehouseman in 220,000 square feet of floor space in Hayward.
3. It can be seen with reasonable certainty that the activity in question will not have a significant effect on the environment.
4. A public hearing is not necessary.
5. The order which follows will provide for revocation of the present certificate held by applicant and the issuance of a new certificate in appendix form, ~~to it.~~

The Commission concludes that the application should be granted.

J & R Warehouses & Service Co., 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 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 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 restrictions. Failure to do so may result in 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 and 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 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 authorized service.
- (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.

3. 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 83687, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2.b. above.

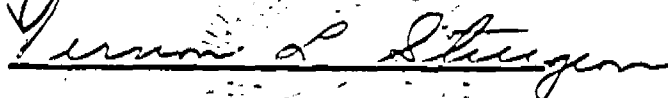
4. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include in its tariff a rule reading substantially as follows:

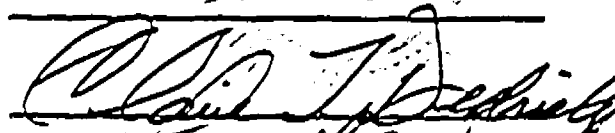
Hazardous or Toxic Commodities: The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly 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.

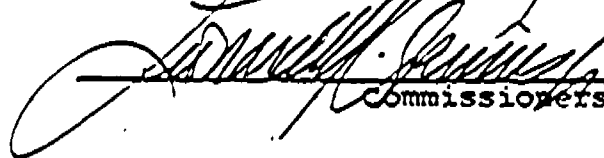
The effective date of this order shall be thirty days after the date hereof.

Dated JUN 17 1980, at San Francisco, California.


President






Commissioners

Commissioner Richard D. Gravello, 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	220,000

(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 JUN 17 1980, Application 59609.