

**ORIGINAL**

Decision No. 9139

**BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the application of  
Los Angeles Ice and Cold Storage  
Company for an increase in rates. ) Application No. 6007.

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In the matter of the application of  
Merchants Ice and Cold Storage  
Company for an increase in rates. ) Application No. 6043.

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In the matter of the application of  
National Ice and Cold Storage  
Company for an increase in rates. ) Application No. 6052.

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Oscar Mueller for Los Angeles Ice and Cold Storage Company,  
George Beebe and F. A. Stevenson for Merchants Ice and Cold  
Storage Company,  
W. J. Variel for National Ice and Cold Storage Company,  
Rex Hardy for Klein-Simpson Fruit Company et al,  
Charles Clifford for Rivers Brothers et al,  
E. Z. Osborne, Jr., and William P. Kealey for Board of  
Public Utilities, City of Los Angeles,  
Jess E. Stephens for City of Los Angeles.

**MARTIN COMMISSIONER:**

O P I N I O N

These three applications, affecting as they do a large part of the cold storage business in the City of Los Angeles, are consolidated into one proceeding.

The Los Angeles Ice and Cold Storage Company (hereinafter referred to as the Los Angeles Company), Merchants Ice

and Cold Storage Company of Los Angeles (hereinafter referred to as the Merchants Company), and The National Ice and Cold Storage Company of California (hereinafter referred to as the National Company) are each engaged in the business of storing goods and in the manufacture and sale of ice. Each of them is a "food warehouseman" and a public utility, as defined in Sections 2 and 3 of the Food Warehouseman Act, effective July 22, 1919. All have complied with the statute by publishing and filing with this Commission schedules of rates and charges, together with rules and regulations and, with the exception of a few minor adjustments, the rates originally filed are still in effect.

The original and amended applications of the three applicants are substantially identical and the revised rate schedules and rules the Commission is asked to authorize involve increases on practically all commodities covered by applicants' schedules as set out in detail in the exhibits accompanying the original petitions.

In support of the petitions, applicants in the original applications submitted statements of operating expenses and revenues for various periods. The allegation is made that in the case of neither company do the net earnings from the public utility portion of the business leave an adequate return on the investment or value of the plant after all proper deductions are made from gross revenue for operating and other expenses.

Formal protests against granting the applications were filed on behalf of the Klein-Simpson Food Company and sixteen other firms storing food commodities and merchandise in Los Angeles. These protests generally challenge the accuracy of applicants' claims as to investment, segregation of

revenues and expenses as between the public utility and non-public utility portion of the business and the figures submitted by applicants with reference to the results of the proposed tariff changes. The City of Los Angeles, through the Board of Public Utilities, appeared in opposition to the granting of these applications.

Hearings were held in Los Angeles and numerous exhibits were submitted on behalf of the applicants, the protestants, and the City of Los Angeles. The Commission's engineering department also filed, in the form of exhibits, its valuation reports and other data bearing upon the general investigation of rate bases, segregation of revenue and expense, estimates of depreciation, allowances and other features of the proceeding. Oral testimony was directed largely to the support or criticism of the various exhibits presented. It was agreed that all testimony and all exhibits submitted in any one application, and in so far as such testimony or exhibits have a bearing on general matters or facts applicable to the consolidated proceeding, should be considered as of evidence in each of the three applications.

All of the necessary testimony and exhibits are now before the Commission in the required form, briefs have been submitted on behalf of the interested parties and the matter is ready for a decision.

#### Character of Applicants' Business.

Each of the applicants is the owner of lands, buildings, and machinery devoted to the manufacture and sale of ice and to the cold storage of perishable and non-perishable food stuffs and other goods. The ice manufactured and stored by applicants is, in part, used in applicants' own cold storage business and, in part, is sold either wholesale or retail.

The Los Angeles Company, in addition to its ice and cold storage business, manufactures and sells various beverages.

Under Sections 1, 2, and 3 of the Food Warehousemen Act, this Commission has jurisdiction only over that portion of applicants' business falling within the definition of the term "food warehouseman," as given in Section 2 of the Act, and over the storage of "food commodities," as that term is construed in Section <sup>1</sup> of the Act. It is apparent, therefore, that as to a large part of applicants' business the Commission has no jurisdiction. In order to reach a decision, however, on the matters properly before the Commission, it is necessary that proper segregation of property, investment, values, revenues and expenses to the various public utility and non-public utility branches of the business be made, and a considerable portion of the exhibits and testimony in these proceedings relate to this phase of the matter.

The cold storage business naturally tends to monopoly and is competitive only in degree. It is agreed by applicants that cold storage rates, charges, rules and regulations, as applying to Los Angeles and as between the applicants now before the Commission, should be substantially uniform. The proposed tariffs filed by applicants bear out this contention and Mr. W. G. Eisenmayer, the Vice President and General Manager of the Los Angeles Company, testified to this effect.

I am of the opinion that this conclusion is sound and that varying rates for identical cold storage service in the same community would result in unjustifiable discrimination. To proceed on a contrary view would, in time, result in the elimination of the concern charging the higher rate. There is room and there should remain room for a healthy competition between the companies in the matter of the most convenient and

most efficient service, and on that basis several companies will be able to continue in the business. Section 12 of the act creating the cold storage companies a public utility clearly recognizes this condition when it states:

"The legislature hereby further declares that food warehousemen, as defined in section two of this act, are engaged in a business, tending to monopoly, and that by reason of such monopolistic tendency and by reason of its vital connection with the distribution of public necessities, such business is clothed with a public interest and subject to public regulation and control for the public welfare as a public utility, as in this act provided."

The problem before the Commission is, therefore, to determine fair and reasonable rates with the factors of investment, valuations, revenues and expenses different for each applicant.

#### Present Rates and Effect of Proposed Rates.

The tariffs and rules under which applicants are now operating are substantially the tariffs and rules existing on July 22, 1919, when this Commission's control under the Food Warehousemen Act became effective. During the period of the war and between the dates of September 1, 1918, and February 22, 1919, the United States Food Administration exercised a measure of control over the cold storage business and established rules and regulations intended to aid in the efficient production, distribution, and conservation of food products. The Food Administration also fixed maxima storage rates. It is to be noted, however, that there was no exclusive and definite rate fixing by the Food Administration and that the storage companies under its control were free to charge rates lower than the maxima established by the federal government. In the case of the storage companies, applicants in this proceeding, the rates in effect prior to the U. S. Food Administration's control had

been lower than the maxima permitted by the Administration. Applicants, however, took advantage of the maxima and substantially raised all of their rates to conform to the highest permitted rates.

Between February 22, 1919 (when the Food Administration's control terminated) and July 22, 1919 (when this Commission's control began), there was an interim during which certain adjustments and changes in rates and regulations were made by applicants, these changes generally tending towards an increase in charges. During this period, also, applicants discontinued the so-called season rates, this form of rates having been criticised and in a measure condemned by the Food Administration as opposed to the principles which should govern in the matter of storage of food stuffs during the crisis of the war.

It is a fact, therefore, that the rates now in effect not only represent the maximum rates permitted by the federal government during the war but are, generally, in excess of those maximum charges.

It is now proposed by applicants to further advance the rates and to make changes in rules and regulations which, in the majority, also constitute an increase in cold storage charges. The proposed changes range, in the main, on first month's storage from 20 to 50 per cent higher than the existing rates. For the succeeding months proposed charges are fewer in number, involving less radical increases and including a number of reductions. The reductions, however, applying as they do only after termination of the first month's storage, are of little moment from a revenue standpoint.

A number of cancellations and adjustments are also proposed in applicants' Exhibit "A" including new rates and

regulations not shown in the present schedules. A number of the proposed changes involve no increase but are designed to clarify and place the tariffs on a better working basis, and this to the extent that it places no increased burdens on storers seems desirable and requires no specific authority of this Commission beyond the provisions of Section 5 of the Food Warehousemen Act and the Commission's tariff regulations.

Rates now in effect as to a number of leading commodities would, under the application, take increases in accordance with the following percentages, variations being governed by tonnage, time, kind of packages and character of storage.

Butter	14	to	33-1/3	per cent
Eggs	15	to	66-2/3	"
Fruit-Citrus	60	to	66-2/3	"
Fruit-Deciduous (in Standard Boxes)	18	to	22	"
Meat	14	to	60	"
Onions	20	to	25	"
Potatoes	33-1/3	to	43	"
Poultry	10	to	50	"
Vegetables	20	to	60	"

In justification of the higher scale of rates requested by applicants, it is asserted in the petitions that a careful check has been made of the cold storage business of each utility for the year 1919, which, when applied to present conditions and immediate future prospects, demonstrates the inadequacy of the existing schedules. It becomes important, therefore, to determine as accurately as possible whether applicants' claims with reference to an adequate return are substantial and whether the increases sought are justified under the circumstances that should be controlling in a public utility rate case.

#### Investment, Valuation, Rate Base, Revenues, and Expenses.

The three applicants claim that the revenues from the cold storage business are not adequate to allow for a fair return after proper operating expenses and taxes have been paid.

They have submitted statements intended to show the valuation of the property devoted to the cold storage business and investment in such business and they have also furnished statements showing revenues and expenses.

There is not at present in existence a uniform bookkeeping classification for this class of public utilities, such as the Commission has promulgated for other utilities under its jurisdiction. We have, therefore, a condition where not only the methods of bookkeeping are different for each of the three applicants, but also where the segregation between the different branches of each applicant's business is more or less arbitrary and a matter of conjecture. This is true of all important divisions of applicant's accounts, such as capital accounts, revenue and expense accounts and balance sheet accounts.

It was amply demonstrated during the course of these hearings that there was a lack of<sup>a</sup> consistent accounting system and, therefore, difficulty in reaching an agreement on the operating cost figures between petitioners and protestants and between petitioners and the Commission's staff.

Investment, revenues and expenses, involving cold storage alone, as covered by applicants' exhibits for the year 1919, were stated to be as follows:



	<u>L.A. Ice &amp; C.S. Company</u>	<u>Merchants Ice and C. S. Co.</u>	<u>National Ice &amp; C.S. L.A. Plant</u>
Investment	\$1,036,144.52	\$200,000.00	\$379,435.16
Revenues	224,452.12	49,681.46	64,286.92
Expenses	<u>149,797.94</u>	<u>45,351.00</u>	<u>44,894.68</u>
Net Operating Revenue	\$ 74,654.18	\$ 6,330.46	\$ 19,392.24
Deduction for Depreciation	<u>36,113.40</u>	<u>10,850.00</u>	<u>8,379.68</u>
Profit or Loss	+ \$38,540.78	- \$4,519.54	+ \$ 11,012.56
Rate of return (before "deduction for depreciation")	7.2+%	3.1+%	5.1+%

Other data was submitted tending to show substantially increased operating expenses for certain months of 1920, as compared with similar months in 1919. In the amended applications filed subsequently, the valuations of applicants' cold storage properties were shown as follows:

Los Angeles Company (7th and 4th St. Plants):

Property value as of September 1, 1920,  
("Appraised value of property--cold storage")

Buildings, Machinery and Equipment,	\$722,267.52
Real Estate,	<u>313,877.00</u>
Total -	\$1,036,144.52

National Company (Los Angeles Plant):

Property value as of July 31, 1920,  
("Property Replacement Value")

Real Estate, Buildings, Machinery, Equipment,	\$370,442.00
Working Capital Required	<u>25,000.00</u>
Total -	\$395,442.00

Merchants Company:

Property values as of October 15, 1920,

Reproduction Cost Less Depreciation (using present day unit costs) exclusive of real estate,	\$243,737.00
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The Commission instructed its engineering department to check applicants' inventories and appraisals and to make its own independent valuation to the extent deemed necessary.

Separate reports were introduced by the department as exhibits for each of applicants' property and the following totals for the cold storage property were found:

Los Angeles Company:

Operative property -- Inventory  
as of September 1, 1920,

	<u>Historical Reproduction C o s t</u>	<u>Reproduction Cost    Less Depreciation</u>
7th St. Plant,	\$409,790.00	\$329,194.00
4th St. Plant,	<u>586,936.00</u>	<u>486,255.00</u>
	\$996,726.00	\$815,449.00

NOTE:

These figures are exclusive of "ice storage rooms." Certain rooms are used for the storage of ice and it would appear that this storage space should not be charged to the cold storage business but to the ice business.

National Company:

Operative property -- Inventory as of September 20, 1920,	\$278,849.00	\$210,325.00
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Merchants Company:

Operative property -- Inventory as of October 15, 1920,	\$280,890.00	\$209,950.00
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The valuation figures taken from the Commission's exhibits are based upon a segregation of applicants' property as made by our engineers between the various branches of the business. This segregation differs from that adopted by the applicants themselves. It is to be noted that in each instance our own engineers assign a larger proportion of applicants' property to the cold storage business than do the applicants themselves. Whether or not we adopt the method of segregation of our engineers, or that of the applicants, becomes an element in the determination of a rate base.

A careful analysis was made of revenues and expenses and an effort was made to ascertain for each company the following figures for a period of at least one year preceding the application:

- (a) Total Operating Revenue covering all of the Company's business.
- (b) That portion of the Operating Revenue which is applicable to the business under consideration in the Application.
- (c) Total Operating Expense not including depreciation, taxes and interest, or other fixed charges, for all of the Company's business.
- (d) That portion of the Operating Expense, not including depreciation, taxes and interest, or other fixed charges, which is applicable to the business under consideration in the Application.
- (e) All Other Expense, not covered under (c), for all of the Company's business.
- (f) That portion of Other Expense not covered under (d), which is applicable to the business under consideration in the Application.

Owing to the lack of satisfactory accounting methods, it was impossible to ascertain all of this data with a fair degree of accuracy and it is necessary to have recourse to approximations. The figures supplied by the companies showing revenues and expenses and the derived rates of return, as summarized above, cannot be accepted as reliable. It developed that included in operating expenses are items of interest on borrowed money, items properly chargeable to profit and loss, and that segregations were made between different branches of the business that do not seem reasonable.

The Los Angeles Company is the largest of the three storage utilities, having a storage revenue approximately twice as large as the other two companies combined. The investment, according to the Company's figures, in the Los Angeles Company is four times as large as in the Merchants Company and nearly three times as large as in the National Company. Again, according to appli-

cants' figures, the Los Angeles Company for each \$1,000.00 of investment obtains a gross revenue of approximately \$220.00, the Merchants Company of approximately \$245.00, and the National Company of approximately \$170.00.

The operating ratios for 1919, according to applicants' figures, were approximately 65 per cent for the Los Angeles Company and approximately 70 per cent for the National Company. The ratio for the Merchants Company in that year was clearly abnormal, being in excess of 80 per cent, but it is noted that the relation of the expense to revenue has fluctuated greatly in different years and between the three applicants. Considering all of the relevant factors, including the character of the business done, the amount of storage space available and the history of each Company, it is apparent that a general rate structure should be based upon normal operations of the Los Angeles Company rather than on either of the other two smaller companies. It is also apparent that the Los Angeles Company does not by any means operate under unusual or extremely favorable conditions. In testing a given rate structure against the operations of the Los Angeles Company, a reasonable and normal standard will, therefore, be adopted and not one that the two smaller companies will find it impossible to meet.

Taking as a general basis the experience of that company in the recent past and making proper adjustments in the submitted operating figures, the annual operating results may be estimated as follows:

Operating costs for labor and material including maintenance and taxes,	\$130,000.00
Operating revenue,	<u>220,000.00</u>
Net return,	\$90,000.00
Operating ratio,	60%

This net of \$90,000.00 would be equivalent to a

"fair return" of slightly over 9% on the historical reproduction cost undepreciated, as found by the Commission's engineers for the operative property of the Los Angeles Company, and of slightly over 11% on the reproduction cost less depreciation.

The Company adds to its operating expenses the sum of \$36,113.00 for "depreciation" (\$12,706.00 for the 7th Street plant and \$23,407.00 for the 4th Street plant). Assistant Engineer Davis, in Commission's Exhibit "B", also makes an estimate of a depreciation annuity on a 6% sinking fund basis and reaches the conclusion that there should be set aside annually, to provide for the replacement of all depreciable property, the sum of \$10,922.00 (\$4,242.00 for the 7th Street plant and \$6,680.00 for the 4th Street plant). If depreciation is not otherwise taken care of this sum should be deducted from the net return (shown above as \$90,000.00) in order to get a true estimate of the "fair return." It is a fact, however, that the Company does not carry an actual depreciation reserve but takes care of renewals, according to the testimony, as a part of the ordinary maintenance and operating expenditures. It appears that this has been the practice in the past of not only the Los Angeles Company but of the other two applicants, and since the cold storage operations and the cold storage property are an inseparable part of the other operations and the other property of the Company, I see no reason why the Commission should insist, in this case, on the setting aside of a separate depreciation fund for the storage property alone. It would not be proper, however, to leave unadjusted operating expenses which already include the cost of renewals, and in addition allow another theoretical depreciation annuity designed to take care of property replacements both large and small. This would result in an unjustifiable duplication in an expense estimate.

Even if we assume, for the purpose of this estimate, that one-third or one-half of the depreciation annuity estimated by our engineers should be added to the operating costs, the remaining "fair return" would still be in excess of 8% on the undepreciated reproduction cost and in excess of 10% on the depreciated reproduction cost.

The years 1919 and 1920 may be considered as reflecting the peak of operating costs for both labor and materials. Electric power is one of the largest items in the Company's cold storage expense, and the cost of power is decreasing. This is also true of other large expense items, such as machine repairs and labor expense. One other factor should not be lost sight of, and that is the increase in business that may reasonably be expected. It is in evidence that for a portion of the year the applicants are obliged to carry varying amounts of empty space. This condition is due partly to seasonal requirements and partly to present excess capacity in anticipation of business growth. There is no doubt in my mind that such growth may be confidently expected in a city developing and increasing in population as rapidly as is Los Angeles. While it is true that increased business will result in increased operating expenses, the expense ratio attaching to the increased business will become more favorable and the result will be an increase of the Company's profits.

It is my conclusion, therefore, that under the present rates and with the amount of business at present offered, the Los Angeles Company is earning all of its operating costs, including taxes and depreciation and, in addition, is earning an ample and fair return regardless of whether this fair return is measured against the depreciated or undepreciated historical reproduction cost. I am further of the opinion that with efficient operation this fair return will increase under present rates by reason of larger business which may confidently be

expected.

Rate Comparisons and Season Rates:

There were introduced as exhibits in these proceedings comparison of the Los Angeles rates with rates in other cities in the United States for the purpose of showing that the Los Angeles cold storage rates were unduly low. It is my opinion that no conclusive showing has been made in this respect. But aside from that, it would seem that Los Angeles rates should be based on Los Angeles conditions and costs and that rates of other cities, where, in the majority of instances, storage and climatic conditions are very different, cannot serve as a just and reasonable criterion for what this service should cost in Los Angeles.

Applicants ask that season rates be abolished, Protestants make serious objection to this proposal and ask that such rates be retained. I am satisfied that season rates are discriminatory and unfair and that they have a tendency, to say the least, to encourage speculation in foodstuffs. The desirable and equitable aim in all rate-making should be that the consumer or patron pay, as nearly as may be, the cost of the service received plus a reasonable return upon investment. While it is impossible to realize this ideal in all cases, I see no reason why the principle should be varied from with cold storage rates. There can be no doubt that to base charges on a uniform unit of time is more equitable than to discriminate with a time unit between different storers and different classes of goods. The United States Food Administration, during the war, investigated quite exhaustively the matter of season rates for storage. It is realized that during the stress of the war period considerations governed which have not the same force in normal times. But it seems to me that some of the reasons given by the Food Administration in object-

ing to season rates are as good now as they were then. The Administration came to the following conclusions:

Season rates must be considered unfair and inequitable, because they do not represent accurate and reasonable compensation for services rendered.

The costs of conducting the cold storage business have exact reference to a small unit of time, such as a month, rather than a maximum period, such as a season. For instance, the principal items involved are rent, interest, depreciation, labor, etc., all figured on a monthly basis.

Season rates must be regarded as discriminatory.

It has been customary, on season goods, to add the storage cost to the price of the goods, and to give the benefit of the unexpired season storage to the purchaser, regardless of whether the goods were to be carried for the season, or immediately withdrawn. This eventually added to the cost of the product to the consumer.

Undoubtedly the season rate practice leads to undue length of time in carrying merchandise, which might be interpreted as "hoarding" or lending itself to speculative practices.

I recommend that season rates be permanently abolished and that the regular monthly unit rate should apply for all classes of merchandise.

I suggest the following form of order:

#### O R D E R

Los Angeles Ice and Cold Storage Company, Merchants Ice and Cold Storage Company, and National Ice and Cold Storage Company having, in original and amended applications, asked the Commission to make its order granting the increases in rates proposed to be established by applicants; hearings having been held, exhibits introduced, and testimony heard, and it appearing to the Commission, after careful consideration of all the evidence, that an increase in the cold storage rates and a change in rules and regulations as proposed by applicants are not justified at this time and, if granted, would result in unfair and unreasonable rates, charges, rules and regulations;



IT IS HEREBY ORDERED, That the applications be and the same are hereby dismissed without prejudice.

IT IS FURTHER ORDERED, That the request of the protestants in these applications, viz: Klein-Simpson Food Company et al for re-establishment of season rates on certain commodities be and the same is hereby denied without prejudice and that the monthly unit of time in computing rates and charges shall be retained for all commodities.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24<sup>th</sup> day of June, 1921.

H. P. Benedict

H. J. Loveland

Irving Martin

H. P. Benedict

Commissioners.