

Decision No. 19974

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of the HOWARD TERMINAL, a corpora-
tion, for an order authorizing the
lease of certain property.

Application No. 19974.

McCutchen, Olney, Mannon & Greene,
by John O. Moran, for Applicants.

Morrison, Hohfeld, Foerster, Shuman & Clark,
by F.C. Hutchens, interested party.

Markell C. Baer, Port Attorney, M.D. McCarl
and George B. Hegardt, for Port of Oakland.

HARRIS, COMMISSIONER:

O P I N I O N

This is an application by a public utility wharfinger for an order under Section 51(a) of the Public Utilities Act authorizing it to lease certain property to Kieckhefer Container Company, a Delaware corporation.

Howard Terminal, the applicant, also designated herein as lessor, is a corporation which is engaged as a public utility wharfinger in operating docks, wharves and other facilities on the San Francisco Bay in Oakland, California. Its property consists in part of about fifteen acres of land on which are located Terminal Building Units numbered 1 to 11, inclusive, and Piers No. 1 and No. 2.

Terminal Building Unit No. 8 and the east half of No. 7 are now occupied under a lease by said Kieckhefer Container

Company and are used by it as a manufacturing plant and for storage of its stock, including paper and fibre board products. Unit No. 8 and the east half of No. 7 have never been used by applicant in its public utility operations.

The Kieckhefer Container Company now needs more space for its operations and, to meet this requirement, it is necessary for applicant to lease that company a portion of Unit No. 6 which adjoins the east half of Unit No. 7, now occupied by the proposed lessee.

Unit No. 6 is now used by applicant in its utility business for the accommodation of tonnage in transit and for wharf demurrage storage. It has an area of 32,000 square feet.

A copy of the proposed lease is attached to the petition. Among other things, the lease provides for the leasing of "floor space in Howard Terminal Building Unit No. 6 to the extent of 10,000 square feet" for a term of three years at a rental per month of three cents (3¢) per square foot. It also provides that the "leased premises are to be used by lessee for the reception and storage of paper and fibre board products and for no other purposes***."

The premises to be leased are located in the northeast corner of Lot No. 6 immediately adjoining the east half of Lot No. 7 and are to be fenced off and thereby separated from the remainder of Lot No. 6. All public utility wharfinger services in connection with the property stored thereon, including car-loading and unloading, are to be rendered by the lessor at its tariff rates. The rental to be paid under the proposed lease is more per square foot than lessee now pays for

Unit No. 8 and the east half of No. 7. The granting of the lease will not impair or adversely effect in any way the operations of applicant as a public utility wharfinger. Neither will it give the lessee a preferred position over other shippers nor the lessor any advantage it does not now have over other wharfingers in competition for the lessee's tonnage.

At the hearing it was stipulated that the following provision of the lease should be cancelled:

***lessor agrees that the tonnage belonging to lessee and landed on said dock shall be moved into lessor's Terminal Building Unit No. 6 free of expense to lessee; such movement shall include the segregation and piling according to stevedoring custom."

O R D E R

Basing its Order on the statements and findings of fact in the preceding Opinion,

IT IS HEREBY ORDERED that applicant be and it is hereby authorized to enter into the lease above described.

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 12th day of

July, 1935.

M B Harris

Frank R. [Signature]
Commissioners.