

Decision No. 20662

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 GROWERS REFRIGERATION COMPANY, a
 corporation, for (1) a certificate
 declaring that public convenience
 and necessity requires and will re-
 quire the transaction of business by
 applicant as a cold storage warehouse-
 man, under the provisions of the Pub-
 lic Utilities Act of the State of Cal-
 ifornia and particularly under the
 provisions of Section 50½ of said act;
 and for (2) an order authorizing the
 issuance of stock by applicant and
 for authority to assume outstanding
 obligations.

Application No. 15528.

ORIGINAL

Clarence E. Todd and A. L. Johnson, for the Applicant.

Reginald L. Vaughan, for Pacific States Cold Storage Warehouse-
 men's Association, National Ice & Cold Storage Company, and
 Merchants Ice & Cold Storage Company, Protestants.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

By Decision No. 21008 of April 24, 1929, in the above en-
 titled application, Growers Refrigeration Company, a corporation, was
 granted a certificate of public convenience and necessity to operate
 a cold storage warehouse business in San Francisco. Pursuant to the
 terms of a stipulation duly executed by and between applicant on the
 one hand, and Merchants Ice & Cold Storage Company and National Ice &
 Cold Storage Company on the other hand, the certificate was made sub-
 ject to the following conditions:

1. That the operations of the company be confined to cold storage warehousing only, as distinguished from a dry warehouse business or a combination cold storage and dry warehouse business;

2. That the operation of such cold storage warehousing business be conducted at a specific site and location, and at no other, viz., on Oregon Street, between Front and Davis Streets, in the City and County of San Francisco;

3. That the cold storage business for which this certificate is issued shall be limited now and hereafter to not more than 15,000 square feet;

4. That such cold storage will be limited to refrigeration services not below 30° Fahrenheit;

5. That such cold storage warehousing will now and hereafter be confined to the commodities shown in the proposed tariff filed in this proceeding as Exhibit "C", and no others.

Thereafter, on December 10, 1935, applicant filed a supplemental application seeking a modification of its certificate, "by eliminating Condition No. 5 thereof, and by permitting applicant to act as a general cold storage warehouseman, and to handle in addition to the commodities listed in 'Exhibit C' annexed to applicant's former application, the following commodities: barrel goods, i.e., food products, sauer kraut, fruit juices, beer; bulbs and plants; fish, dried and smoked, bloaters; leaves and plants; dried milk; oysters and shrimp; poultry; rabbits; Christmas trees."

Public hearings on the supplemental application were had at San Francisco before Examiner W. S. Johnson on December 22, 1936 and February 3, 4, 5 and 15, 1937.

The record shows that for a period of more than six years applicant has conducted a limited warehousing business in accordance with the terms of its certificate and has maintained a policy of early morning opening, of permitting removals in small or broken lots, and of providing free delivery service within a radius of several blocks by means of a small electric truck. Testimony of commission merchants and other public witnesses called in applicant's behalf indicates that these special services, together with the location of applicant's warehousing facilities, are of particular convenience in the storing of

fruits and vegetables which applicant is now authorized to store. In addition there is some testimony that it would be convenient to store a few other commodities with this applicant. However, the public witnesses called by applicant testified without exception that the service of National Ice & Cold Storage Company and Merchants Ice & Cold Storage Company is entirely satisfactory.

Pacific States Cold Storage Warehousemen's Association, Merchants Ice & Cold Storage Company and National Ice & Cold Storage Company opposed the granting of the supplemental application. They introduced considerable evidence as to the adequacy of the existing service. Commission merchants, dealers and representatives of dealer associations called by protestants, testified convincingly that the warehousing service of protestants is sufficient and satisfactory. Moreover, it was shown that certain of the commodities which applicant now seeks authority to store cannot be kept for more than a few days in cooler service (storage at temperatures not lower than 30 degrees Fahrenheit), and hence that it would be impracticable to store such commodities in applicant's warehouse.

An application for elimination of restrictions has many of the elements of an application for a certificate de novo. In either instance it is incumbent upon the applicant to show affirmatively a public need for the proposed service. The evidence here adduced by applicant was confined almost entirely to a showing of the convenience afforded by its facilities for the storage of fruits, vegetables and other commodities which may now be handled under its certificate. Little evidence was offered to support a finding that there is a public need for the additional service proposed.

Upon consideration of all the evidence of record we are of the opinion and find that applicant has not sustained the burden of showing that public convenience and necessity require the granting of the authority sought. The supplemental application will be denied.

O R D E R

This supplemental application having been duly heard and submitted;

IT IS HEREBY ORDERED that supplemental application No. 15528, filed December 10, 1935, be and it is hereby denied.

Dated at San Francisco, California, this 12th day of April, 1937.

W. L. ...
Leon ...
Frank ...
Ray & Riley
Commissioners.