

Decision No. 38598

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
UNION ICE & STORAGE COMPANY, a)
corporation, for a Certificate of)
Public Convenience and Necessity)
authorizing it to store and handle)
at its San Pedro-Wilmington cold)
storage warehouses, in addition to)
fish and seafood, all perishable)
products requiring refrigeration.)

ORIGINAL

Application No. 26823

BY THE COMMISSION:

Appearances

Reginald L. Vaughan, for applicant.
Leon A. Bailey, for Pacific States and Cali-
fornia Warehousemen's Association,
interested parties.

O P I N I O N

Applicant is engaged in the business of a public utility cold storage warehouseman at various locations in California, including its cold storage warehouses located at Wilmington and San Pedro where the certificates are restricted to the handling of fish and sea food products. By this application it seeks authority to store at Wilmington and San Pedro, in addition to fish and sea food products, all commodities which may require refrigeration while being stored,¹

A public hearing was had before Examiner Bryant at Los Angeles on November 1, 1945, and the matter is ready for decision.

The application shows that there are no public cold storage warehouse facilities in the Wilmington-San Pedro district other than those operated by applicant. Testimony in support of the application was offered by the executive secretary of the San Pedro Chamber

¹ Wilmington and San Pedro are districts comprising the harbor area within the City of Los Angeles.

of Commerce, by a representative of a ship supply company, by the secretary of the Los Angeles-Long Beach Harbors Ship Suppliers' Association, and by two officers of the applicant corporation.

The Chamber of Commerce representative testified that he was familiar with the application, that he and the president of the chamber had discussed it, and that they were very anxious to have the permit granted, as they "believe it is a public convenience and necessity for the community."

The representative of the ship supply company testified that his company was engaged in the business of supplying vessels with a full line of provisions, including meats, poultry, fish, butter, eggs, and groceries. He said that he was very desirous of using the proposed service, and estimated that he would require cold storage for a minimum of 50 tons a month under peacetime conditions. He explained that the ships, to avoid expensive demurrage, had to be provisioned on short notice and within a limited number of hours.² His company has a small amount of refrigerated space of its own in San Pedro, but has had to go to public warehouses in the Los Angeles commercial area--about 20 miles from the harbor--for any large volume of storage. The witness said that motor vehicles consumed about four hours in going from San Pedro to the Los Angeles warehouses, getting their load, and returning to the harbor. Under these circumstances it was difficult to service the ships within the allotted time, there was some deterioration of the frozen foods because of the temperature changes, and the transportation charges were quite high. He estimated that his company would save from \$500 to \$600 a month in truck transportation charges alone if adequate cold storage facilities were available in the harbor area.

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The witness stated that tankers may be loaded and ready to sail within 12 to 24 hours after they arrive at the port, and that demurrage charges are possibly \$300 or \$400 an hour.

The secretary of the Los Angeles-Long Beach Harbors Ship Suppliers' Association testified that he acted as purchasing agent for the nine members of the association; that he was responsible for storing the commodities after their arrival in California; that public cold storage facilities were not available in the harbor area except at Long Beach; that the Long Beach facilities were used to the extent of their capacity, but most of the storage had to be placed in uptown Los Angeles. He declared that the association and its members were placed under a terrific hardship and expense by the absence of public facilities in Wilmington or San Pedro for the cold storage of general food commodities, and said that unless such public storage were provided the association would be forced to establish its own proprietary facilities. He stated that during the war period he had required storage for 60 to 90 carloads a month, and said that 25 or 30 carloads would be a conservative estimate of the normal peacetime requirements. He said that all of his storage would be placed in the harbor area if adequate space were available.

The superintendent of Union Ice & Storage Company at Wilmington and San Pedro testified that the company received many requests to handle commodities other than fish and sea food products, but had been unable to comply because of the restriction in its present certificates. He said that the requests had been made over a period of seven or eight years, but had become more insistent recently. He believed that a public need would be filled if the company were enabled to accept for storage all commodities requiring refrigeration. He said that during the war period the company had not been performing any regular storage for the public in San Pedro, and that during some peak periods the Wilmington plant had been unable to handle all of the fish and sea food products that were tendered.

The last witness was the manager of the warehouses herein involved. He described the storage facilities of applicant in Wilmington and San Pedro in some detail, and explained the company's present plans with respect to remodeling the buildings to accommodate the storage of products requiring refrigeration at varying temperatures. He said that the initial plan, to be put into effect immediately upon receiving the authority herein sought, was to construct a mezzanine floor in a building at 423 West 18th Street, San Pedro, now used principally for storing ice of the parent company; and to remodel the warehouse building at 663 South Fries Avenue, Wilmington, by removing some fish bins and erecting partitions. The San Pedro building has a present floor area of 2,000 square feet, and an additional 1,900 square feet would be provided by the proposed mezzanine floor. The lower floor would continue to be used principally for company ice, but could be used to accommodate some public storage at times. The Wilmington building has a floor area of 6,000 square feet, of which about half would be converted from fish storage to general storage. In addition to these two buildings, a cold storage room with a floor area of 1,250 square feet at 18th and Mosa Streets in San Pedro, now held by the Navy, would be available for public storage as soon as the property was returned to applicant's control. The total area to be devoted to public storage in the early future, therefore, would be 6,000 square feet in Wilmington and 3,150 square feet in San Pedro, with the possibility of some overflow into the 2,000-square-foot ice storage room at San Pedro.

The witness explained that the company's certificate authorized a maximum storage area of 10,000 square feet in San Pedro, in addition to the 6,000 square feet occupied in Wilmington. He asked that an additional 9,000 square feet be authorized, thus

permitting the company to expand to 25,000 square feet at Wilmington and San Pedro according to managerial discretion. He thought it possible "to make available that amount of storage eventually." He said it was "the hope of the company in its program, assuming that it would be provident, under its management, to ultimately exercise that much space if the demands of the public require it"; and added that "applicant would like to have the right to have that much space, in order to anticipate the future." For the immediate future he thought it would be unwise for the company to acquire or construct additional facilities until the management had some experience as to how much tonnage it could expect to handle. He believed that the proposed reconversion of existing facilities, which would cost an estimated \$6,000 in Wilmington and \$15,000 in San Pedro, would be sufficient "to take care of the immediate demands and the demands within the reasonable future, following the opening of such facilities for the storage of general commodities."

The rates, rules and regulations which are proposed to govern the proposed storage, other than of fish and sea food products, are those generally maintained by other warehousemen in the Los Angeles basin area, as published in California Warehouse Tariff Bureau Cold Storage Tariff No. 2-D, C.P.C. No. 86 of L. A. Bailey, Agent.

No other witness testified. No one opposed the granting of this application.

The authority sought by Union Ice & Storage Company, falls into two parts. First, it asks that its present operative rights at Wilmington and San Pedro, now restricted to the handling of fish and sea food products, be broadened to permit the storage of all refrigerated commodities. Second, it asks the right to expand the

existing facilities at Wilmington and San Pedro to a total of 25,000 square feet of floor area, this right to be exercised in whole or in part whenever in the future the management deems it prudent to do so.

The evidence of record amply justifies the granting of the first request. It shows that the Wilmington and San Pedro districts of the City of Los Angeles are now without any public cold storage warehouse service whatever, other than the service offered by applicant for the handling of fish and sea food products. The storage of other refrigerated commodities have been required to supply their own cold storage facilities, or to store their commodities in public warehouses located in Long Beach, in the Los Angeles commercial area, or elsewhere. As the direct result of these conditions the storers have been greatly inconvenienced, and have been made to suffer substantial expense for the transportation of their goods from the points of storage in Long Beach and Los Angeles to the points of sale in Wilmington and San Pedro. The consumers of the merchandise have been adversely affected at times by delays in delivery and by some deterioration of the product. It is clear that public convenience and necessity require the proposed liberalization of applicant's operative rights to permit the handling and storage of any and all refrigerated commodities.

The record does not, however, establish the public necessity for the sought enlargement of the existing operative rights to permit a future expansion of facilities to a total of 25,000 square feet of floor area. The present certificate authorizes a maximum storage area of 10,000 square feet in San Pedro, in addition to the 6,000 square feet occupied in Wilmington. According to the present record applicant's public storage operations in San Pedro have been conducted in three buildings. The first, having a floor area of 1,250

square feet, was operated from 1939 to approximately March, 1942, when the Navy took possession of the building. The second, having a floor area of 7,000 square feet, was operated from July 5, 1942, to approximately January, 1943, when the Navy acquired the use of the building. Applicant retained the underlying lease on the latter property until December, 1944, when the lease was terminated because the request of the owner was considered exorbitant. The third building, having a floor area of 2,000 square feet, was added to the tariff on May 28, 1945. This building has been used primarily for the storage of ice owned by the parent company. No part of the building has been set aside exclusively for public storage, but one corner has been used when the ice tonnage would permit.

It would thus appear that applicant has never operated more than 7,000 square feet of public storage space in San Pedro; operated no space at all from January, 1943 to May 28, 1945; and since the latter date has operated less than 2,000 square feet. Service in the buildings acquired by the Navy was suspended or discontinued without application to or authorization from this Commission. The scope of applicant's existing operative rights are not in issue in this application, and will not be determined in this proceeding. However, since applicant asserts the certificated right to operate 10,000 square feet of warehouse space in San Pedro, and since the company's present plans call for the operation of only 3,150 square feet with the possibility of some overflow into the 2,000-foot ice storage room, it is entirely clear that applicant has not justified the sought enlargement of the area heretofore authorized. The Commission will not grant a certificate of public convenience and necessity to operate warehouse space which the applicant does not intend to operate in the near future, and which the applicant

believes to be substantially greater than necessary "to take care of the immediate demands and the demands within the reasonable future."

Upon careful consideration of all of the facts and circumstances of record, the Commission finds as a fact that public convenience and necessity require that the cold storage warehouse operative rights of Union Ice & Storage Company at Wilmington and San Pedro, now restricted to fish and sea food products, be broadened to permit the storage of any and all refrigerated commodities. To this extent the sought certificate will be granted. In other respects the application will be denied.

O R D E R

Union Ice & Storage Company, a corporation, having made application as above entitled, public hearing having been had, evidence received, the matter submitted, and the Commission now being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require that the public cold storage warehouse services of Union Ice & Storage Company in the Wilmington and San Pedro districts of Los Angeles, heretofore restricted to the handling of fish and sea food products, be made available for the handling of any and all commodities which may require refrigeration while being stored; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and it is hereby granted to Union Ice & Storage Company, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall fail to file a written acceptance of the certificate herein granted within thirty (30) days from the effective date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred, assigned, divided, nor otherwise disposed of unless written consent of the Commission to such discontinuance, sale, lease, transfer, assignment, division or other disposition has first been obtained.

IT IS HEREBY FURTHER ORDERED that applicant shall file, in triplicate, and make effective within a period of not to exceed one hundred and twenty (120) days from the effective date of this order, on not less than five (5) days' notice to the Commission and to the public, and concurrently with the establishment of said business, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Order No. 61 and containing rates, rules and regulations which shall be identical with those proposed, or rates, rules and regulations satisfactory to the Commission.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15th day of January, 1946.

Harold Ruden
James F. Casper
Edward W. P. [unclear]
James P. [unclear]
Harold P. [unclear]
 Commissioners