

Decision No. 38771

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 UNION ICE & STORAGE COMPANY, a cor-)
 poration, 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

Appearances

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

OPINION ON REHEARING

By Decision No. 38598 of January 15, 1946, in this proceeding, Union Ice & Storage Company was authorized to broaden its cold storage warehouse operations at Wilmington and San Pedro, previously restricted to fish and sea food products, to include any and all refrigerated commodities. Applicant petitioned for rehearing for the purpose of seeking an order declaring the exact number of square feet which it may operate.

Rehearing was had before Examiner Bryant at Los Angeles on February 21, 1946. The matter is ready for decision.

On the original record applicant sought, in addition to removal of the commodity restriction, authority to expand to a total of 25,000 square feet of floor area in Wilmington and San Pedro combined. Certificates previously granted in other proceedings authorized the operation of approximately 6,000 square feet in Wilmington and 10,000 square feet in San Pedro. The original record indicated

¹ Decision No. 22649 in Application No. 16639; Decision No. 23075 in Application No. 16992; Decision No. 32576 in Application No. 22974; and Decision No. 35471 in Supplemental Application No. 22974.

that applicant had operated the Wilmington space continuously, but had never operated more than 7,000 square feet in San Pedro, had operated no space at all in San Pedro during two of the war years, and operated less than 2,000 square feet in that community since May, 1945. It showed, moreover, that applicant's immediate plans contemplated no expansion in Wilmington, and the use of little more than 3,000 square feet in San Pedro. The Commission found that the sought enlargement of the area theretofore authorized had not been justified. The existing operative rights were not in issue, and their scope was not determined (Decision No. 38598, supra).

On rehearing applicant seeks a finding that public convenience and necessity now require that it be authorized to occupy and operate 16,000 square feet of warehouse floor space; and that this space be assigned to the Wilmington-San Pedro area, without designating the square footage in each of the two communities.

Evidence on rehearing was introduced through the testimony of the manager of the warehouses involved. He explained that the company's expansion plans had changed materially since the original record was developed on November 1, 1945. Under the revised program the company would add approximately 3,000 square feet to its existing building at 663 South Fries Avenue, Wilmington; would place into warehouse operation for the first time a building of 2,500 square feet now leased by and to be sub-leased from the parent corporation, Union Ice Company, at 1137 Wilmington-San Pedro Road, Wilmington; would restore to public service as soon as possible a cold storage room with a floor area of 1,250 square feet, now held by the Navy, at 18th and Mesa Streets, San Pedro; and would devote to public use on a seasonal basis a building of 2,000 square feet at 423 West 18th Street, San Pedro. The latter building is required by the

parent corporation for the storage of ice during most of the year, but would be available during the months of December, January and February of each year, through a lease arrangement with the applicant, for general public storage.

The total area to be operated by applicant in Wilmington and San Pedro when these plans were fully carried out would be approximately 14,700 square feet. The witness explained that authority for 16,000 square feet was sought in order that the company might have a reasonable latitude in its program. He said that the original request for 25,000 square feet was made in anticipation of future expansion; but that the company would now be satisfied to go ahead on authority to operate 16,000 square feet, seeking supplemental authority in the future when the need arose and plans matured.

The witness declared that failure of the company to place and keep in operation the 16,000 square feet of floor area under previous certificates had been due entirely to special circumstances attributable to the recent war. He said that the company never had any intention of abandoning any of its operative rights or services, and that failure to seek Commission approval of service suspensions in buildings requisitioned by the Navy had been due to oversight.

In support of the request that the authority be assigned to the combined Wilmington-San Pedro areas, without designating the square footage in each of the two districts, the witness stated that the two districts comprise a homogeneous area sometimes referred to as the Los Angeles Harbor District. He explained that Wilmington and San Pedro were entirely within the corporate limits of the City of Los Angeles, that they were adjacent, and so far as he knew they had no definite boundaries of their own. As an indication of the undesirability of certificating separate areas to each of the two

districts, he pointed out that the previous certificates authorized about 6,000 square feet in Wilmington and 10,000 square feet in San Pedro, whereas the company's present plans contemplated the use of 11,450 square feet in Wilmington and 3,250 in San Pedro. He declared that the public convenience and necessity would be best served if the certificate were limited only to the Wilmington-San Pedro area as a whole, allowing the company to maintain space in either or both of the districts as the available facilities and the public storage requirements might dictate.

As hereinbefore indicated, applicant has been previously authorized to establish and operate approximately 6,000 square feet of cold storage warehouse space in Wilmington, and 10,000 square feet in San Pedro, restricted in both cases to the handling of fish and sea food products. On the original record in this proceeding it sought removal of the commodity restriction and authority to expand to a total of 25,000 square feet. The evidence amply justified granting of the first request; but the enlargement was denied for the reason that applicant planned to use not only materially less space than that sought, but actually less space than that which had been previously certificated.

On rehearing, applicant presented revised plans which would involve the use of about 14,700 square feet of space, corresponding roughly to the total of 16,000 square feet heretofore authorized. Applicant in effect is now seeking confirmation of the right to operate 16,000 square feet of warehouse space in the Wilmington-San Pedro area. While the record does not, of course, show the exact amount of floor area which may be needed to meet present and future cold storage requirements, the evidence introduced on the original record showed clearly that public storage facilities should

be provided for substantial quantities of refrigerated commodities. Applicant operates the only public cold storage warehouse facilities in the Los Angeles Harbor area.

The record is convincing that public convenience and necessity require that applicant be authorized to operate 16,000 square feet of cold storage warehouse floor space in the Wilmington-San Pedro district of the City of Los Angeles. No present public necessity appears for designating separately the amount of space which may be operated in the Wilmington District or the San Pedro District, and applicant's request that the combined area be considered as a whole for purposes of this application will therefore be granted.

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 Union Ice & Storage Company be authorized to operate not to exceed 16,000 square feet of cold storage warehouse floor space in the Wilmington-San Pedro area of the City of Los Angeles, for the handling of any and all refrigerated commodities. A certificate will be granted accordingly, to be issued in lieu of certain earlier certificates which were more restrictive.

ORDER ON REHEARING

Rehearing having been had in the above entitled application, the proceeding having been duly submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require that Union Ice & Storage Company operate not to exceed 16,000 square feet of

cold storage warehouse floor space in the Wilmington-San Pedro districts of the City of Los Angeles, 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 certificate herein granted is issued in lieu of certificates heretofore granted by Decision No. 22649 in Application No. 16639; Decision No. 32576 and Decision No. 35471 in Application No. 22974; and Decision No. 38598 in the instant Application No. 26823.

2. The authority herein granted shall lapse and be void if applicant shall fail to file a written acceptance of the certificate herein granted within sixty (60) days from the effective date hereof.

3. 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.

IT IS HEREBY FURTHER ORDERED that applicant shall designate clearly in its tariff or tariffs the street location or street locations at which warehouse services herein authorized are offered to the public, and shall thereafter make concurrent amendment of the tariff or tariffs to show any additions, discontinuances, suspensions, or changes of service at any street location or street locations.

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

Dated at San Francisco, California, this 17th day of March, 1946.

L. Harold Anderson

Frank H. Lowell

Harold P. Huls

Commissioners