

ORIGINALDecision No. 43915

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LYON VAN & STORAGE CO., a California corporation, for authority to suspend utilization of warehouse space at San Diego, California.

Application No. 32531

In the Matter of the Investigation into the operations and practices of LYON VAN & STORAGE CO. as pertaining to public warehousing operations in the City of San Diego.

Case No. 5313 -

Gordon, Knapp & Gill, by Wyman C. Knapp, and Harold J. Blaine, for Lyon Van & Storage Co.; C. C. Temple for Bekins Van & Storage Co.; Jackson W. Kendall for Bekins Van Lines, Inc.; Torrance & Wansley, by John A. Brant, for Hubner Building Company, Clifford O. Boren, and John R. Christman; Halsey L. Rixford of the Commission's staff.

O P I N I O N

Lyon Van & Storage Co., a public utility warehouseman at San Diego, having been required to relinquish premises occupied by it as a tenant, requested authority to suspend the use of certain warehouse space for one year. Thereafter, the Commission instituted an investigation to determine if there had been any violation of statute by disposing of storage space without authorization, whether the utility should be ordered to restore such space to public use, and whether the utility should be subjected to penalties.

Hearings were held before Examiner Abernathy at San Diego on February 1, March 20 and 21, and April 2 and 3, 1952. The matters were submitted upon the filing of briefs on July 23, 1952.

Since 1948 Lyons has conducted warehouse operations at 4205

Pacific Boulevard, San Diego, located in what is known as the "Consolidated-Vultee plant layout." It occupies a portion of Building No. 1 under a 20-year lease from Charles W. Carlstrom. It has also occupied additional space in that building and in adjoining Building No. 7. Such additional space was occupied as a month to month tenant under verbal agreements with Carlstrom, Lyon to pay only for as much area as was occupied during each month. Early in February of 1951 Lyon received from Carlstrom written notices to quit the areas theretofore occupied under month to month tenancy. Such premises were required for the use of an aircraft company in connection with the accelerated aircraft production program which followed the outbreak of the Korean conflict. Arrangements for use by the aircraft company were made after demands upon Carlstrom which indicated that failure to acquiesce would result in the taking over of the properties by the United States Government.

The notices to quit advised that, in the event of noncompliance, Carlstrom would hold Lyon accountable in an action for unlawful detainer seeking treble damages and costs. Lyon immediately notified the owners of property stored in the rented areas. Lyon removed some small lots of goods from the rented space to the leased space. The relatively larger lots of stored property were turned back to the owners thereof. Sublessees occupying portions of the rented areas removed their goods. The rented premises were vacated in March of 1951.

Involuntary surrender of premises occupied as a tenant is not a disposal of a utility's property within the meaning of Public Utilities Code Section 851, and Commission authorization for such surrender is not required by the statute. Lyon's actions in the light of the emergency with which it was confronted did not result in unlawful preference or prejudice, and the investigation proceeding will

be dismissed. The request for temporary suspension of the use of space will be granted. This decision is not to be construed as a determination of the total amount of warehouse space covered by Lyon's existing operative right in San Diego.

ORDER

Public hearings having been held and the above matters submitted, IT IS ORDERED that Case No. 5313 is hereby dismissed.

IT IS FURTHER ORDERED that Lyon Van & Storage Co. is hereby authorized to suspend, for a period of one (1) year from the effective date of this order, utilization of 32,500 square feet of net warehouse storage space in San Diego.

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

Dated, San Francisco, California, this 7th day of August, 1953.

A. J. [Signature]
President

Justus F. [Signature]
Harold [Signature]

[Signature]
John E. [Signature]
Commissioners