

ORIGINAL

Decision No. 58875

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BERECUT-RICHARDS COLD STORAGE CO., CONE)
 ICE AND COLD STORAGE COMPANY (Oliver W.)
 Chatfield and Frances E. Chatfield, dba),)
 CRYSTAL ICE AND COLD STORAGE WAREHOUSE,)
 DREISBACH COLD STORAGE CO., HASLETT WARE-)
 HOUSE COMPANY, LINCOLN COLD STORAGE)
 COMPANY, INC., MERCHANTS ICE AND COLD)
 STORAGE CO., MORRELL HOLLY COLD STORAGE)
 CO. (Morrell Cold Storage Co., dba),)
 NATIONAL ICE AND COLD STORAGE COMPANY OF)
 CALIFORNIA, RELIANCE COLD STORAGE WARE-)
 HOUSE CO., INC., TAYLOR FREEZER & COLD)
 STORAGE (Russell B. Taylor, dba), TRACY)
 ICE & DEVELOPMENT COMPANY, and UNION ICE)
 & STORAGE COMPANY, for an Increase in)
 Rates.)

Application No. 41062
(Amended)

Vaughan, Paul & Lyons, by John G. Lyons, and Jack L. Dawson, for applicants.
Marvin L. Handler, for Northern California Seafood Institute, Armour & Co., Libby, McNeill & Libby, Frozen Food Forum, Washington Fish Company, John Martin Food Broker, and Meredith Fish Co.; Handler and Baker, by Daniel W. Baker, for Northern California Seafood Institute; R. L. Branchfield, for Armour & Co.; protestants.
Hugh N. Orr, C. V. Shawler, E. C. Crawford and Otto Liersch, for the Commission staff.

I N T E R I M O P I N I O N

Applicants are engaged in public utility cold storage warehouse operations at various locations in the area extending from San Francisco, Hayward, Tracy and Stockton, on the south, to Napa and Red Bluff, on the north.^{1/} By this application, as amended, they seek authority to increase most of their rates for handling, their charges for various accessorial services, and their minimum charges. Except for certain minor adjustments, no increases are sought in the rates for storage. No changes are proposed in handling and storage rates

^{1/} By the first amendment to the application herein Russell B. Taylor, doing business as Taylor Freezer and Cold Storage and operating at Sebastopol, was eliminated as a party to said application.

for cannery stock, which were increased in 1958 under authority of Decision No. 57000 in Application No. 40117. Also no changes are sought in rates on commodities received for freezing, as contrasted with those received frozen and those going into cooler storage.

Public hearing of the application was held before Examiner Carter R. Bishop at San Francisco on May 19 and 20 and June 25 and 26, 1959. At the hearing evidence was adduced on behalf of applicants and their witnesses were examined by counsel for protestants and for the Commission's staff. Counsel for the staff stated that the latter planned to make a study of applicants' operations, indicating that the results of such study would be introduced at an adjourned hearing. Due to other commitments, he added, the staff would not be ready to present its evidence for several months. Counsel for protestants stated that his clients also contemplated offering evidence in support of their protests but preferred to defer their presentation until after the staff evidence was received. In any event, protestants would not be ready to proceed before September.

In view of the representations made by counsel for protestants and for the staff, counsel for applicants requested, at the hearing, that a decision be issued authorizing the sought relief on an interim basis, and predicated on the evidence thus far adduced. The interim relief would be subject to such later revision as might be found justified on the basis of the completed record.

The application alleges that, apart from the aforementioned 1958 increase in cannery stock rates, applicants have, since 1924, had no general adjustment of the rates here in issue. While minor rate increases have been made from time to time on the Commission's special docket, such changes, it is asserted, have not been of such scope as to enable the cold storage warehousemen to meet rising costs of operation. These costs, it appears, have resulted, inter alia,

from repeated wage increases and from the changing character of the cold storage business. This latter aspect has reference to the fact that whereas, prior to the late war, withdrawals from storage were generally made infrequently and in large quantities, now the practice is of frequent and numerous withdrawals in small, and often very small, quantities. This change-over has resulted in greatly increased handling costs and clerical expense. In view of the foregoing circumstances, the application states, the revenues derived from the present rates are insufficient to return a fair profit to the operators. Moreover, the sought increases are greatest in connection with the smaller lots, the handling of which has, it is asserted, resulted in losses to applicants.

The present request, according to the application, is in the nature of a stop-gap proposal. Applicants plan to submit proposals at a future date, following the completion of comprehensive cost analyses in which they are now engaged, which will call for further adjustments in individual rates and charges.

The tariff publishing agent employed by applicants explained the bases employed in developing the proposed rates. The rates for handling in and out of storage are proposed to be increased generally by 50 per cent, subject to minimum rates of 37½ cents and 20 cents per 100 pounds for small and large lots, respectively. The sought rates for handling and the charges proposed for other warehouse labor services are designed to return most, if not all, of the costs incurred in their rendition. Time studies were made by certain of the applicants for the purpose of ascertaining the unit costs involved.

A study of record indicates that the proposed rate and rule changes would increase the total warehouse utility revenues, accruing at the plants embraced herein,^{2/} by approximately seven per cent. The

^{2/} The record indicates that some of the applicants herein also operate public utility cold storage warehouses at locations outside the area embraced by the instant application.

revenue increases estimated for the individual applicants would range from less than one per cent to approximately 12½ per cent. The increases in individual rates and charges would vary widely. Out of a total of 235 individual rates for handling in and out, 54 would not be changed, two would reflect reductions, 65 would be increased 50 per cent and the remainder would be increased by amounts ranging from 10 to 350 per cent, or from one-half cent to 25 cents per 100 pounds.^{3/}

The record includes operating results of each of the applicants for a past 12-month period. The period selected is not uniform for all the warehousemen, but for the majority is the year ending June 30, 1958. The figures purport to exclude all non-utility revenues and expenses, such as those entailed in the production and sale of ice, and to include only those utility warehouse revenues and expenses which are related to operations at the plants embraced by the application herein.

In Table I below are set forth the above-described operating results, including net operating revenues and operating ratios, after provision for income taxes.

^{3/} Under the present plan of tariff publication, the charge for handling in and out is combined with the charge for first month's storage in a single rate. It is proposed in the application herein to publish the charges for these respective services as separate rates. According to the record, the current rates for handling in and out are reflected by the difference between the combined handling-first month's storage rate and the monthly storage rate for second and succeeding months.

TABLE I

RESULTS OF OPERATIONS FOR 12-MONTH PERIOD
ENDING JUNE 30, 1958 (Except as Noted)
AFTER INCOME TAXES

<u>Warehousemen</u>	<u>Revenues</u>	<u>Expenses (Including Income Taxes)</u>	<u>Net</u>	<u>Operating Ratio (Per Cent.)</u>
Bercut-Richards (1) \$	207,856	\$ 204,961	\$ _x 2,895	x 98.6
Cone (2)	13,293	x 11,781	1,512	88.6
Crystal	213,155	247,965	(34,810)	116.3
Dreisbach	186,670	180,067	6,603	96.5
Haslett	37,971	44,339	(6,368)	116.7
Lincoln	84,061	100,110	(16,049)	119.1
Merchants	567,417	561,602	5,815	99.0
Morrell Holly	42,791	39,543	3,248	92.4
National	1,207,958	1,158,355	49,603	95.9
Reliance (3)	23,282	27,781	(4,499)	119.3
Tracy (4)	51,928	45,622	6,306	87.9
Union	523,395	532,720	(9,325)	101.8

() - Indicates loss.

x - No provision in expenses for salary of owner.

(1) - 12-month period ending March 31, 1958.

(2) - " " " " December 31, 1958.

(3) - " " " " July 31, 1958.

(4) - " " " " January 31, 1959.

The tariff publishing agent had also developed estimated operating results under the proposed rates, based on underlying data furnished him by applicants. The estimates were projected by making certain adjustments in the revenue and expense figures shown in Table I. The revenues were expanded to give effect to the proposed increases and, for the full period, to the 1958 increase in cannery stock rates. The expenses were adjusted to give effect on an annual basis to wage increases which have occurred. Additionally, in connection with the expenses of those utilities which rent their facilities from affiliated companies, the agent had eliminated rental costs and had substituted, in lieu thereof, landlord expenses.

Applicants' estimates of operating results, after taxes, under the sought rate increases are summarized in Table II below.

TABLE II
ESTIMATED RESULTS OF OPERATION, AFTER INCOME TAXES
FOR THE PROJECTED RATE PERIODS
UNDER THE PROPOSED RATES

<u>Warehousemen</u>	<u>Revenues</u>	<u>Expenses (Including Income Taxes)</u>	<u>Net</u>	<u>Operating Ratio (Per Cent)</u>
Bercut-Richards	\$ 222,489	\$ 211,995	\$ 10,494	95.3
Cone	13,793	x 11,942	x 1,851	x 86.6
Crystal	237,455	251,311	(13,856)	106.0
Dreisbach	191,793	183,610	8,183	95.7
Haslett	40,644	44,339	(3,695)	109.0
Lincoln	84,338	104,860	(20,522)	124.3
Merchants	636,074	602,075	33,999	94.7
Morrell Holly	46,466	40,909	5,557	88.0
National	1,277,738	1,205,986	71,752	94.4
Reliance	24,922	27,781	(2,859)	111.5
Tracy	51,928	45,622	6,306	88.0
Union	547,989	545,595	2,394	99.6

() - Indicates loss.

x - No provision in expenses for salary of owner.

Rate base estimates and corresponding rates of return under the proposed rates were also developed by applicants. It appears that complete rate base data for four applicants (Cone, Haslett, Morrell Holly and Reliance) could not be secured. All four are relatively small operators, insofar as public utility cold storage warehousing here in issue is concerned. Estimated operating results under the sought rates reflect no return on investment for two of this group of four (Haslett and Reliance) and for two of the remaining eight warehousemen (Crystal and Lincoln). Estimated rates of return for the other six of these eight latter utilities (for whom complete rate base data were developed) are set forth in Table III below. It will be seen from the table that the estimated rates of return range from 0.32 to 4.58 per cent, after taxes. Applicants' rate base estimates, as set forth in the table, include an allowance for working capital.^{4/}

^{4/} According to the record, the working capital estimates are equivalent to two months' operating expenses, exclusive of depreciation expense.

TABLE IIIESTIMATED RATE BASES AND RATES OF RETURN
AFTER INCOME TAXES, UNDER PROPOSED RATES

<u>Warehousemen</u>	<u>Rate Base</u>	<u>Rate of Return (Per Cent)</u>
Bercut-Richards	\$ 606,136	1.73
Dreisbach	594,553	1.38
Merchants	1,672,691	2.03
National	2,031,383	3.53
Tracy	137,599	4.58
Union	737,164	.32

Granting of the application was opposed by an association of producers, wholesalers and brokers of fresh and frozen fish, by several processors and distributors of seafoods and by a meat packing company. Counsel for protestants argued that no decision should be issued in this matter until the record is complete. He pointed out that his clients had not had the opportunity of checking the accuracy of expense allocations and other cost figures in the record. Protestants particularly objected, he said, to the measure of many of the increases being sought in rates for handling in and out. Increases of 30 per cent and higher were considered to be exorbitant. Protestants, he indicated, would not object to increases of from 7 to 10 per cent in these rates.

Counsel for the Commission's staff stated that the latter would neither oppose nor advocate the authorization of rate relief on an interim basis.

Conclusions

According to Table I, supra, five applicants conducted the public warehouse operations here in issue at a loss during the respective 12-month periods studied. The three largest operators, National, Merchants and Union, reflected operating ratios, after taxes, of 95.9, 99.0 and 101.8 per cent, respectively. Under the proposed rates,

Table II indicates that four of the applicants would be still operating in the red; the ratios for National, Merchants and Union would be 94.4, 94.7 and 99.6 per cent, respectively; and the most favorable operating ratio for any of the applicants doing a substantial amount of utility cold storage business would be 94.4 per cent (National).

On the basis of the showing which has been made it is apparent that several of the applicants are urgently in need of some interim rate relief, pending completion of the hearings in this proceeding. While others of the applicants are not similarly circumstanced, the evidence is persuasive that uniformity of rates among the several applicants is necessary, both because of competitive forces and in the interest of avoiding tariff complexities.

Granting of rate relief to the full extent herein sought, however, does not appear justified by the incomplete record. In the light of the evidence now before us it appears that increases in rates for handling in and out greater than 50 per cent or increases in said rates of more than 10 cents per hundred pounds or per package (where rates are so stated) have not been justified. Subject to the foregoing exceptions the increases in rates and charges and other tariff changes proposed in the application, as amended, are, pending further order of the Commission, hereby found to be justified. This finding is without prejudice to any further and different findings which may be made in a subsequent decision following completion of the record.

It is here pointed out that, as to those applicants which operate warehouses at more than one location involved in this application,^{5/} the estimated operating results of record under present and proposed rates are not broken down separately for each warehouse location of the applicants in question. At the adjourned hearings

^{5/} The applicants in question are Haslett, National and Union.

said applicants will be expected to offer evidence showing operating results separately for each warehouse location.

Applicants request that they be permitted to establish the increased rates and other tariff changes on not less than one day's notice to the Commission and the public. Such notice appears to be unduly short. The order which follows will be made effective ten days after the date hereof and will provide for the establishment of the rate and tariff changes on not less than five days' notice.

I N T E R I M O R D E R

Based on the evidence of record and on the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED that:

1. Pending further order of the Commission, applicants herein be and they are hereby authorized to establish, on not less than five days' notice to the Commission and to the public, and subject to the limitations set forth in paragraph 2 below, the increased rates and charges, and other tariff changes proposed in the application, as amended, filed in this proceeding, said increased rates and charges and other tariff changes to be subject to such further revision as the Commission may find justified in a final determination of the issues in said proceeding.

2. In no instance shall rates for handling in and out be increased by more than 50 per cent nor by more than 10 cents per 100 pounds or per package (where rates are so stated).

3. In observing the provisions of paragraph 2, above, disposition of fractions shall be made as follows:

Fractions less than $\frac{1}{4}$ or .25 of a cent - omit.
Fractions of $\frac{1}{4}$ or .25 of a cent or greater,
but less than $\frac{3}{4}$ or .75 of a cent - change
to $\frac{1}{2}$ or .50 of a cent.
Fractions of $\frac{3}{4}$ or .75 of a cent - increase to
next whole figure.

4. The authority herein granted is subject to the express condition that applicants will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that the opinion and order herein constitute a finding of fact of the reasonableness of any particular rate or charge, and that the filing of rates and charges pursuant to the authority herein granted will be construed as a consent to this condition.

5. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

6. In all other respects applicants' request for interim relief is hereby denied.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 11th
day of August, 1959.

Ernest A. Lane
President

D. E. Mitchell

C. J. Fox

Theodore H. Jenner

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.