

ORIGINAL

Decision No. 61696

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into warehouse operative rights of WILLIG FREIGHT LINES, a corporation.

Case No. 6927

Berol and Geernaert by Bruce R. Geernaert and George M. Carr, for respondent.
Sam R. Choate, for California Warehousemen's Association, interested party.
Elinore Charles, for Commission staff.

O P I N I O N

The Commission instituted the present investigation on August 30, 1960. Its purpose is to determine whether or not respondent has acquired a prescriptive right as a warehouseman by reason of operations conducted in good faith on September 1, 1959 under tariffs and schedules of respondent lawfully on file with the Commission. Respondent has filed a written response to the order alleging that it was, in fact, operating certain floor space as a public utility warehouseman, as that term is defined in Section 239 (b) of the Public Utilities Code, in good faith on said date under tariffs and schedules lawfully on file with the Commission.

A public hearing was held before Examiner John Power at San Francisco on January 13, 1961, at which the president of respondent testified. He abandoned his requests for rights at San Rafael and Fort Bragg. He testified that at Santa Rosa respondent had purchased terminal property. In 1955 they constructed a new terminal building and thereafter used the old one for storage. The witness testified to the fact that the public had been using this facility for five years and gave instances of such use. The matter having been submitted, the Commission finds that:

Respondent was, on September 1, 1959, operating as a public warehouseman the space at the location set forth in Appendix A attached to the following order. The Commission further finds that such space, at such location, was operated in good faith under tariffs lawfully on file with the Commission.

O R D E R

Investigation having been instituted on the Commission's own motion, public hearing having been held and the Commission basing its order upon the evidence adduced at such hearing, the response filed by respondent, the tariffs, schedules and annual reports of respondent,

IT IS ORDERED THAT:

1. By reason of operations conducted in good faith on September 1, 1959 and by respondent's tariff filing, of which official notice is taken, Willig Freight Lines possesses a prescriptive operative right as a public utility warehouseman, as that term is defined in Section 239 (b) of the Public Utilities Code, as specifically set forth in Appendix A, which, by this reference is made a part hereof.

2. C. R. Nickerson, Agent, is hereby authorized and directed to cancel the participation of Willig Freight Lines at the locations of Fort Bragg and San Rafael from tariffs filed by him as agent, said cancellation to be made within sixty days after the effective date of this order and on not less than five days' notice to the Commission and to the public.

3. Upon the effective date of this order this proceeding is discontinued.

The Secretary is directed to cause a certified copy of this order to be served upon the respondents in this proceeding.

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

Dated at San Francisco, California, this 21st day of MARCH, 1961.

Cecil C. Page
President

Arthur J. Mitchell

E. Lynn Fox

George L. Hoover

Fredrick B. Holbrook
Commissioners

Willig Freight Lines possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Sq. Ft. Floor Space</u>
Santa Rosa	3,350

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 51695, Case No. 6927.