

**ORIGINAL**Decision No. 61825

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
 motion into warehouse operative rights  
 of WESTWAREHOUSES, INC., a corporation.

Case No. 6886

O P I N I O N

The Commission instituted the present investigation on August 23, 1960. Its purpose is to determine whether or not respondent has acquired a prescriptive right as a warehouseman, as that term is defined in Section 239(b) of the Public Utilities Code, 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 at Lodi, Milpitas and Madera in good faith on said date under tariffs and schedules lawfully on file with the Commission.

Stockton Elevators, respondent in Case No. 6871, claimed the same Lodi space as respondent. The Commission confirmed the space to Stockton Elevators, lessee of respondent. The first response of Westwarehouses, Inc., protested this confirmation.

Subsequent to filing such response, respondent has communicated to the Commission in writing its consent to the entry of a finding as hereinafter set forth, provided the space is confirmed to Stockton Elevators. No public hearing is necessary. Therefore, the Commission finds that respondent was not conducting, in good faith, operations as a public utility warehouseman at Lodi on September 1, 1959, under tariffs and schedules lawfully on file with the Commission.

The Commission further finds that respondent was, on September 1, 1959, operating as a public utility warehouseman the space at the locations set forth in Appendix A attached to the following order, namely, Milpitas and Madera, and that such space at such locations 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, the Commission basing its order upon the response filed by respondent, the tariffs, schedules and annual reports of respondent,

IT IS ORDERED:

1. That by reason of good faith operations on September 1, 1959, Westwarehouses, Inc., a corporation, 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. That any and all operative rights of Westwarehouses, Inc., a corporation, as a public utility warehouse as defined by said Section 239(b) at Lodi are hereby annulled.
3. That Westwarehouses, Inc., is hereby authorized and directed to cancel from its Warehouse Tariff Cal.P.U.C. No. 3, the application therein of rates and charges at Lodi, 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.

4. That 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 forthwith upon respondent in this proceeding.

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

Dated at San Francisco, California, this 11<sup>th</sup> day of April, 1961.

[Signature]  
 President

[Signature]

[Signature]

[Signature]

[Signature]  
 Commissioners

Westwarehouses, Inc., a corporation, 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 Square Feet of Floor Space</u>
Madera	24,000
Milpitas	120,000

(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.

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