

Decision No. 61933**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into warehouse operative
rights of OREGON NEVADA CALIFORNIA
FAST FREIGHT, INC., a corporation.

Case No. 6957

C. J. Boddington, for respondent.
Carl F. Peters, for Los Angeles Warehousemen's
Association, interested party.
Elinore Charles, for the Commission staff.

O P I N I O N

The Commission instituted the present investigation on September 13, 1960. Its purpose is to determine whether or not respondent has acquired a prescriptive right as a warehouseman (as defined by 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 certified response to the order alleging that it was, in fact, operating certain floor space as a public utility warehouseman 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 Los Angeles on January 5, 1961, and the matter was submitted.

Respondent's traffic manager testified as a witness. His testimony reveals that the buildings allegedly dedicated to public storage use by respondent were acquired to serve as common carrier terminals. They are still in use as such. Storage was billed under carrier tariffs almost down to September 1, 1959. Since that date the space has been offered by respondent for public storage under a public warehouse tariff.

The respondent has provisions in its highway common carrier tariff for storage of refused, unclaimed or will-call freight.¹ Also, certain storage duties are imposed on carriers by bills of lading which follow forms now in use in the transportation industry.²

The Commission finds that respondent was conducting operations as a storer of property for the public generally on September 1, 1959, but that such operations were of the type contemplated by Section 239(a) of the Public Utilities Code, that is, they were conducted in connection with or to facilitate the transportation of property by a common carrier or the loading or unloading of property.

The following order will annul respondent's claimed rights as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code and cancel its participation in public warehouse (Section 239(b)) tariffs. This action will not preclude respondent from continuing warehouse operations under the terms of its common carrier tariffs when such operations are incidental to its transportation services or are required by a lawful bill of lading. The right of common carriers to conduct such operations is expressly reserved to them by Section 239(a). No public warehouse certificate is required for services contemplated by Section 239(a).

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,

¹ Respondent has rules and rates for refused or undelivered shipments and storage as a participant in Local and Joint Freight Tariff No. 4, Cal. P.U.C. No. 4, issued by Southern California Freight Forwarders, and in Local and Joint Tariff No. 16, Cal. P.U.C. No. 19, issued by Pacific Coast Tariff Bureau.

² e.g. Uniform straight bills of lading pp. 165-170 of Western Classification No. 77 of J. P. Hackler, Tariff Publishing Officer, especially Sections 1(b) and 4(a) of contract terms and conditions.

IT IS ORDERED that:

1. Any and all claimed operative rights of Oregon Nevada California Fast Freight, Inc., as a public utility warehouseman, as that term is defined in Section 239(b) of the Public Utilities Code, are hereby annulled.

2. Any and all powers of attorney on file with the Commission in the name of Oregon Nevada California Fast Freight, Inc., as a public utility warehouseman, are hereby canceled.

3. Warehouse Tariff No. 1, Cal. P.U.C. No. 1, of Oregon Nevada California Fast Freight, Inc., a corporation, is hereby canceled.

4. This proceeding is discontinued upon the effective date hereof.

The Secretary is directed to cause service of a certified copy of this order to be made upon respondent.

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

Dated at San Francisco, California, this 1st day of May, 1961.

[Signature]
President

[Signature]

[Signature]
Commissioners