

**ORIGINAL**Decision No. ~~61969~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
 motion into warehouse operative rights  
 of Southern California Freight Lines,  
 a corporation.

Case No. 6965

C. J. Boddington, for respondent.  
Carl F. Peters, for Los Angeles Warehousemen's  
 Association, interested party.  
Elinore Charles, for 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 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 certified responses<sup>1/</sup> 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 submitted.

Respondent's traffic manager testified in its behalf. It appears that, except for Calexico, all of respondent's offered buildings were its common carrier terminals. It had performed

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<sup>1/</sup> One for each of fifteen locations.

storage of the type contemplated by Section 239(a) of the Public Utilities Code, that is, storage incidental to transportation. Such service was rendered under common carrier tariff items until August 31, 1959. Since then, the space has been offered under public warehouse tariffs.

The respondent has provisions in its highway common carrier tariff for storage of refused, unclaimed or will-call freight.<sup>2/</sup>

Also, certain storage duties are imposed on carriers by bills of lading which follow forms now in use in the transportation industry.<sup>3/</sup>

The following order will give effect to the fact that respondent's claimed rights as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, except at Calexico, do not exist. It will cancel its participation in public warehouse 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 Commission finds that respondent was not conducting operations in good faith as a storer of property for the public generally within the meaning of Section 239(b) on September 1, 1959, except at Calexico. Operations other than at Calexico were conducted in connection with or to facilitate the transportation of property by a common carrier or vessel or the loading or unloading of property

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<sup>2/</sup> Respondent has rules and rates for refused or undelivered shipments and storage as a participant in Local and Joint Tariff No. 16, Cal. P.U.C. No. 19, issued by Pacific Coast Tariff Bureau, C. R. Nickerson, Agent, and in Local and Joint Freight and Express Tariff No. 4, Cal. P.U.C. No. 4, issued by Southern California Freight Forwarders.

<sup>3/</sup> e.g. Uniform straight bills of lading pp. 165-170 of Western Classification No. 77 of J. P. Hackler, Tariff Publishing Officer, especially Secs. 1(b) and 4(a) of contract terms and conditions.

within the meaning of Section 239(a) of said Code, for which no certificate is required.

The Commission further finds that respondent was, on September 1, 1959, operating as a public utility warehouseman the space at the location set forth in Appendix A attached to the following order, namely, Calexico, and 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, 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 operations in good faith on September 1, 1959, Southern California Freight Lines, a corporation, possesses a prescriptive 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.

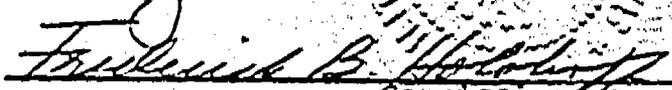
2. That Southern California Freight Lines is hereby authorized and directed to cancel from its Warehouse Tariff the application therein of rates and charges at Bakersfield, Chula Vista, Colton, El Centro, Escondido, Fresno, Hemet, Indio, Modesto, Oceanside, Oxnard, Salinas, Santa Ana and Watsonville, 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. 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 9th day of MAY, 1961.

  
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President  
  
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Commissioners

Appendix A      SOUTHERN CALIFORNIA FREIGHT LINES      Original Page 1  
(a corporation)

Southern California Freight Lines possesses a prescriptive 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>
Calexico	5,400

(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. 61969, Case No. 6965.