

Decision No. 65268

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
WARREN BALLINGER, an individual do- )	
ing business as WARREN BALLINGER )	
WAREHOUSE CO., to sell, and BANNER )	Application No. 44785
WAREHOUSE CO., a corporation, to )	
purchase prescriptive warehouse )	
operating rights. )	

SUPPLEMENTAL OPINION AND ORDER

Decision No. 64438, dated October 23, 1962, in this application, authorized the transfer of a prescriptive warehouse operative right in San Francisco from Warren Ballinger, doing business as Warren Ballinger Warehouse Co., to Banner Warehouse Co., a corporation, but denied the latter's request to publish and file a proposed tariff containing rates higher than those of Ballinger. The decision stated that no showing had been made to support the proposed increases.

By petition filed January 8, 1963, Banner Warehouse Co. requests that the Commission reopen and reconsider this matter and authorize the publication and filing of its proposed Warehouse Tariff No. 1. The petition sets forth additional information and supporting statements in justification of the tariff proposal.

Petitioner alleges that Ballinger's rates now on file for this operation have not been changed materially in fourteen years and do not reflect current operating costs nor the many services normally afforded by a public warehouseman. The current rates were filed by a predecessor in 1948 and adopted by Ballinger in 1952. No operations have been conducted thereunder since October 29, 1961, when Ballinger's warehouse property was destroyed by fire.<sup>1</sup>

<sup>1</sup> By Decision No. 63028 dated January 9, 1962, as amended, in Application No. 43982, Ballinger was authorized to suspend his public warehouse operations until May 8, 1963. Subsequently, the transfer of the warehouse operations from Ballinger to Banner was authorized by Decision No. 64438, supra.

In support of its proposed Warehouse Tariff No. 1, petitioner alleges that its basic monthly square foot storage rates will be lower than those in the existing Ballinger tariff, and that its proposed rates for other services generally will be equal to or lower than the present charges of other public warehousemen operating in San Francisco, which charges were either found by the Commission to be reasonable or have been in existence for a long period of time without being challenged as either unreasonable or unlawful.<sup>2</sup> Petitioner avers that there are many public utility warehouse services proposed under the new tariff for which rates are not set forth in the present tariff, and that the new tariff is essential in order to inform and apprise the public of the services that are to be provided. Petitioner states that the rates are predicated upon costs and expenses which it expects to incur when the operation is reestablished. The petition includes a projected statement of warehouse income and expense which reflects the results of anticipated utility and non-utility revenues and expenses for a one-year period under the proposed rates, according to which a profit of \$1,344, before income taxes, is expected from the business.

The verified petition shows that a copy thereof was sent to the California Warehousemen's Association, the San Francisco Chamber of Commerce and the Warehousemen's Association of the Port of San Francisco. No objection to the granting of the petition has been received.

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Petitioner compares certain of its proposed rates with those published in California Warehouse Tariff Bureau Warehouse Tariff No. 36, Cal.P.U.C. No. 200, issued by Jack L. Dawson, Agent; and the F. J. Burns Warehouse, Warehouse Tariff No. 1, Cal.P.U.C. No. 1, both of which are applicable in San Francisco.

Upon consideration of all of the facts and circumstances set forth in the verified petition, the Commission is of the opinion and finds that the proposed increases in rates are justified. Banner will be authorized to publish the tariff of rates as proposed in Application No. 44785 on not less than ten days' notice to the Commission and to the public, and the authority to transfer the prescriptive operative right will be restated in accordance with the current circumstances. A public hearing is not necessary.

Good cause appearing,

IT IS ORDERED that:

1. On or before August 1, 1963, Warren Ballinger may sell and transfer, and Banner Warehouse Co., a corporation, may purchase and acquire the prescriptive operative right referred to in Application No. 44785.

2. Within thirty days after the consummation of the transfer herein authorized, Banner Warehouse Co. shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Banner Warehouse Co. is hereby authorized to establish the tariff of rates as specifically proposed in Exhibit "D" of Application No. 44785. The tariff filing shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and to the public, and the effective date of the tariff filing shall be concurrent with the consummation of the transfer herein authorized. The tariff filing made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs as set forth in the Commission's General Order No. 61-A.

4. Concurrently with the effective date of the tariff filing made in accordance with ordering paragraph 3 hereof:

(a) the operative authority as a public utility warehouseman currently held by Warren Ballinger is hereby revoked and, in place and stead thereof, the prescriptive operative right as a public utility warehouseman is stated for Banner Warehouse Co., a corporation, as more particularly set forth in Appendix A attached hereto and by this reference made a part hereof; and

(b) Warehouse Tariff No. 3 on file with the Commission in the name of Warren Ballinger, dba Warren Ballinger Warehouse Co., Cal.P.U.C. No. 3 (series of A. J. Becker), is canceled.

5. In providing service pursuant to the operative authority set forth herein, Banner Warehouse Co. shall comply with and observe the following service regulation:

Within thirty days after the effective date hereof, it shall file a written acceptance of the operative right herein stated. By accepting the operative right herein stated, it is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file said reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operative right set forth in Appendix A hereof.

6. Decision No. 64438 dated October 23, 1962, in Application No. 44785, is superseded by the order herein.

7. The authority herein granted shall expire unless exercised on or before August 1, 1963.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 23 day of April, 1963.

George T. Crowe  
President

Robert S. [unclear]

Wesley W. [unclear]

Frederick B. Hallock

William M. [unclear]  
Commissioners

BANNER WAREHOUSE CO.  
(a corporation)

Appendix A

Banner Warehouse Co., 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>
City and County of San Francisco	25,000

(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.  
Decision No. 65268, Application No. 44785.