

Decision No. 65469

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of MERCHANTS REFRIGERATING )  
COMPANY OF CALIFORNIA, a corpora- )  
tion, for a certificate of public )  
convenience and necessity author- )  
izing operation as a cold storage )  
warehouseman at Salinas, California.)

Application No. 45235  
(Filed March 13, 1963)  
(Amended April 9, 1963)

OPINION AND ORDER

By this application, as amended, Merchants Refrigerating Company of California, a corporation, requests a certificate of public convenience and necessity authorizing it to operate as a public utility cold storage warehouseman in the City of Salinas, Monterey County. Applicant proposes to dedicate 24,500 square feet of warehouse floor space to conduct a general cold storage warehouse business in premises owned and operated by it at 950 South Sanborn Road, Salinas. According to applicant, all classes of commodities requiring cold storage will be stored and handled in these facilities.

Applicant alleges that there are presently no public utility cold storage warehouses operating in Salinas; that it has received numerous requests for the proposed service; and that there is a definite public need in Salinas for the public warehouse facilities which applicant proposes to operate.<sup>1</sup> Applicant declares that it is currently performing such a service for several of its customers but desires to dedicate its facilities to the public use.

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<sup>1</sup> The Commission's records show that the nearest public cold storage warehouse is located at Watsonville, Santa Cruz County, a distance of approximately 19 miles from Salinas.

Applicant's warehouse in Salinas consists of a single story, reinforced concrete building equipped with all necessary refrigeration equipment as well as other equipment required in the operation of a cold storage warehouse, including the necessary office facilities.

The application states that Merchants Refrigerating Company of California is currently operating as a public utility warehouseman providing for the cold storage of foodstuffs at warehouses located in the Cities of Modesto, San Jose and Santa Clara.<sup>2</sup> In addition, applicant states that it has personnel with many years of experience who are available for the management and operation of the proposed public utility cold storage warehouse at Salinas.

Attached to the application and marked as Exhibit B is a statement showing the rates, rules and regulations which applicant proposes to publish in connection with its warehouse operation at Salinas. In support thereof, applicant states that the proposed rates are on the same level as those now applicable at its San Jose and Santa Clara warehouses with the exception of certain rates in low weight brackets which have been increased to compensate for higher labor costs. Applicant alleges that the proposed rates are reasonable and are expected to yield a reasonable profit for the warehouse operation involved.

Also attached to the application are the latest available financial statements of applicant. These statements indicate that

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Applicant possesses prescriptive warehouse operative rights at Modesto and Santa Clara as determined by orders of the Commission dated June 20 and June 28, 1960, in Cases Nos. 6554 and 6574, respectively. Similar authority in the City of San Jose is possessed by applicant pursuant to authority in Section 1052 (amended in 1959) of the Public Utilities Code.

its present warehouse operations have been profitable and that applicant is financially able to conduct the proposed warehouse operation.

The application and amendment show that copies thereof were mailed to Pacific States Cold Storage Warehousemen's Association in care of Mr. Jack L. Dawson, agent, on or about March 11 and April 9, 1963, respectively. No objection to the granting of the application has been received.

In the circumstances, it appears, and the Commission finds, that public convenience and necessity require the proposed operation. A public hearing is not deemed necessary. The application will be granted.

Merchants Refrigerating Company of California is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

Good cause appearing,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Merchants Refrigerating Company of California, a corporation, as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and by this reference made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the public utility warehouse operations authorized by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs satisfactory to the Commission.
- (c) The tariff filings 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 the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of May, 1963.

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Robert L. Whitehill President

Acting President

Fredrick B. Holdhoff

William W. Bennett

Commissioner Everett C. Kurbane, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners

Appendix A

MERCHANTS REFRIGERATING COMPANY OF CALIFORNIA  
(a corporation)

Merchants Refrigerating Company of California, a corporation, possesses a certificate of public convenience and necessity as a public utility warehouseman for the operation of cold storage warehouse floor space as follows:

| <u>Location</u> | <u>Number of Square<br/>Feet of Floor<br/>Space</u> |
|-----------------|---|
| Salinas         | 24,500  |

(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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