

Applicant requests that its original 1929 certificate be amended to authorize operation as a cold storage warehouse without limit on the right to provide refrigeration at temperatures below 30° Fahrenheit; and for the storage, chilling and freezing of all fruits, vegetables, mushrooms, meats, fish, poultry, dairy products and other perishable items as noted in Growers' Refrigeration Company Cold Storage Warehouse Tariff No. 3. It was alleged that service was to be provided out of a newly constructed warehouse located on a 32,000 square foot lot near the San Francisco Produce Terminal, where cold storage is particularly in demand. Several protests were filed and the application was heard before Examiner Fraser at San Francisco on March 29, 1967, on which date it was submitted. The protestants changed their appearances during the hearing to that of interested parties and the matter was submitted on a stipulation.

The president of the applicant corporation testified as follows: Growers' Refrigeration Company is a family owned corporation of which he has been an officer for more than ten years; applicant has served the same customers for many years by providing only a cooler (above 30° Fahrenheit) service; these customers now demand and require a freezer (below 30° Fahrenheit) service making it necessary for applicant to request that its operating authority be broadened to include the right to provide storage at freezer temperatures; applicant's original warehouse was at 240 Oregon Street (since 1929) in the heart of the San Francisco produce industry; the produce dealers and applicant were forced to move due to their properties being condemned for public use; the applicant seeks authority to operate another cold storage warehouse one block from the new San Francisco

Produce Terminal; applicant has constructed a new cold storage warehouse at 2050 Galvez Street in San Francisco located across the street from the west end of the Islais Creek Channel and about 400 feet south of Army Street; the lot has a dimension of 30,000 odd square feet and has a newly constructed warehouse on it with an 8,400 square foot cold storage capacity; applicant has 3,000 square feet of freezer space already allocated and estimates about 4,000 square feet of cooler space can be rented as soon as authority to operate is obtained; the monthly operating cost totals \$5,900 with a monthly income of from \$6,500 to \$8,500; the warehouse can be expanded as business increases to a total storage area of approximately 21,000 square feet. Applicant's balance sheet for the twelve months ending on December 31, 1966, shows assets of \$108,742; current liabilities of \$850 and total liabilities of \$74,833; the profit and loss statement lists operating expenses of \$2,523 and cold storage income of \$339, for a net loss during 1966 of \$2,184. The witness explained that the loss was suffered due to applicant's having no warehouse from which to operate during the past year.

The witness further testified that applicant's rates have not been changed since 1956. He testified the applicant had no premises to operate from during the past seven years and no effort was made therefore to raise its rates, which became obsolete and non-compensatory. He further testified that applicant is seeking herein to have its freezer and cooler storage rates increased to the level presently charged by other warehouses for the same service. He stated the applicant is petitioning to adopt the freezer and cooler rates contained in California Warehouse Tariff Bureau Cold Storage

Warehouse Tariff No. 16-A, California P.U.C. No. 192, Jack L. Dawson, Agent; in addition to the cooler rates on apples, avocados, berries, citrus fruits, cranberries, grapes, papayas, pears, pineapples, tangerines - etc., cucumbers, lettuce, melons, potatoes, onions, rutabagas, sack goods, and vegetables packed in various containers as described on pages 11, 12, and 13 of Exhibit C attached to this application, along with the following rule: (Rule No. 8, Exhibit C):

Stencilling, strapping and recording weights:
Stencilling, strapping and recording of weights will be done when requested by the storer, for which the following charges will be made:

- a. Stencilling only - more than 20 packages \$.05 per package, minimum - \$1.00
- b. For the service of strapping with steel, wire or tape, two wires per case, there will be a charge of \$.10 per case - minimum - \$1.00

Counsel for applicant identified a number of produce dealers who were ready to use the new warehouse. He stated numerous produce dealers and others were willing to testify regarding their need for applicant's new service, but they were not called due to the stipulation with the protestants and the latter's promise to withdraw the protests.

Counsel for protestants advised they were all changing their appearances to that of interested parties on the understanding that applicant will start operations with 8,400 square feet of cold storage space and will add no more than 12,500 additional square feet without the approval of this Commission (Exhibit 1); will not operate more than fifty percent of its warehouse at a temperature below 30

degrees Fahrenheit; and will adopt the cooler/freezer rates in California Warehouse Tariff Bureau Cold Storage Warehouse Tariff No. 16-A together with the rule on stencilling and strapping quoted herein and the additional rates on cooler commodities previously referred to, which are to be published by the applicant in a separate tariff (Exhibit 1).

After consideration, the Commission finds that:

1. Applicant operated a cold storage warehouse from April 1929 to July of 1961 at 240 Oregon Street in San Francisco.
2. Applicant's property was condemned in 1961 by the City of San Francisco, for a redevelopment project.
3. Applicant was thereby forced out of business and remained inactive until the San Francisco Produce Terminal moved to its present location.
4. Applicant now requests authority to operate under a revised certificate utilizing a newly constructed warehouse and to increase its freezer and cooler rates to the level charged by other cold storage warehouses in San Francisco.
5. Applicant should be granted authority to operate a cold storage warehouse of not to exceed 20,900 square feet at 2050 Galvez Street in San Francisco with no increase in footage to be effected without specific approval of the Commission.
6. No more than half of the available cold storage space may be operated below 30 degrees Fahrenheit.

7. Applicant should be authorized to adopt the freezer and cooler rates contained in California Warehouse Tariff Bureau Cold Storage Warehouse Tariff No. 16-A, California P.U.C. No. 192, Jack L. Dawson, Agent; in addition to the cooler rates on apples, avocados, berries, citrus fruits, cranberries, grapes, papayas, pears, pineapples, tangerines - etc., cucumbers, lettuce, melons, potatoes, onions, rutabagas, sack goods, and vegetables packed in various containers as described on pages 11, 12 and 13 of Exhibit C attached to Application No. 49141 and the stencilling and strapping charges provided in Rule No. 8, Exhibit C, as previously quoted herein.

8. The increases in rates and charges authorized herein are justified and that present rates, insofar as they differ from those herein prescribed, for the future are unjust and unreasonable.

9. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

10. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

11. Applicant should be granted a restated certificate.

Based upon the foregoing findings of fact, the Commission concludes that the application should be granted to the extent provided in the following order.

Applicant 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, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Growers' Refrigeration Company, 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 made a part hereof.

2. Applicant is authorized to publish and file the rates and charges described in Finding No. 7 of the preceding opinion.

3. 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. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, 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 tariffs, in triplicate, in the Commission's office.

- (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.

4. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 21008, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

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

Dated at San Francisco, California, this 11th day of 1 JULY, 1967.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

Growers' Refrigeration Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman for the operation of cold storage floor space as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
San Francisco (2050 Galvez Street)	8,400

Growers' Refrigeration Company shall not expand its cold storage floor space to exceed an additional 12,500 square feet without specific authority from the Commission and shall not operate more than 50 percent of the cold storage space at temperatures below 30 degrees Fahrenheit.

(End of Appendix A)

Issued by California Public Utilities Commission:

Decision No. 72751, Application No. 49141.