

**ORIGINAL**

Decision No. 74557

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 )  
 of )  
 )  
 BERCUT-RICHARDS PACKING CO. and )  
 BERCUT-RICHARDS COLD STORAGE CO. )  
 )  
 for an order or orders authori- )  
 zing (a) the transfer of the )  
 public utility warehouse )  
 prescriptive operative right )  
 of Bercut-Richards Packing Co. )  
 to Bercut-Richards Cold Storage )  
 Co.; and (b) the issuance by )  
 Bercut-Richards Cold Storage )  
 Co. of shares of its stock. )  
 \_\_\_\_\_ )

Application No. 50439  
Filed July 29, 1968

O P I N I O N

This is an application for an order of the Commission authorizing Bercut-Richards Packing Co. to transfer its public utility warehouse prescriptive operative right to Bercut-Richards Cold Storage Co., and authorizing the latter to issue and sell 1,000 shares of its \$10 par value capital stock.

Bercut-Richards Packing Co. is a California corporation engaged principally in the processing and canning of fruits and vegetables. In addition, public utility operations are conducted as a cold storage warehouseman pursuant to the prescriptive

operative right determined by the Commission on September 5, 1961, in Case No. 7183. Said right authorizes the operation of 78,000 square feet of storage or warehouse floor space in the City of Sacramento, exclusive of the expansion permissible under Section 1051 of the Public Utilities Code. The company reports that less than 3% of its annual gross income is derived from the public warehouse business.

In this proceeding Bercut-Richards Packing Co. proposes to transfer said warehouseman prescriptive operative right to Bercut-Richards Cold Storage Co., a California corporation organized on or about June 17, 1968. The latter seeks authority to issue and sell 1,000 shares of its \$10 par value capital stock for \$10,000 cash to be used for working capital.

The application shows that no value will be assigned to the prescriptive operative right and that the transferee will conduct its operations in the Sacramento facilities under a lease arrangement.

After consideration the Commission finds that: (1) the proposed transfer will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or

to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the prescriptive operative right herein authorized to be transferred nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before November 30, 1968, Bercut-Richards Packing Co. may transfer, and Bercut-Richards Cold Storage Co. may acquire, the prescriptive operative right referred to in the application.

2. Bercut-Richards Cold Storage Co., on or before November 30, 1968, for the purpose of acquiring working capital, may issue and sell, at par for cash, not exceeding 1,000 shares of its \$10 par value capital stock.

3. Bercut-Richards Cold Storage Co. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Bercut-Richards Cold Storage 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.

5. Bercut-Richards Cold Storage Co. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the 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 consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A. Failure to comply with and observe the provisions of General Order No. 61-A may result in a cancellation of the operating authority acquired pursuant to this decision.

6. Concurrently with the effective date of the tariff filings for warehouse operations required by Ordering Paragraph No. 5 hereof, the prescriptive operative right as a public utility warehouseman set forth in the Order dated September 5, 1961, in Case No. 7183, is hereby revoked and, in place and stead thereof, a prescriptive operative right as a public utility warehouseman is hereby stated for Bercut-Richards Cold Storage Co., as more particularly set forth in Appendix A attached hereto.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Bercut-Richards Cold Storage Co. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the warehouse operations of the transferor for the period commencing with the first day of the current fiscal year to and including the effective date of the transfer;

8. The effective date of this order is the date hereof.

Dated at San Francisco, California,  
this 20<sup>th</sup> day of AUGUST, 1968.

William J. ...  
President  
Stallman ...  
...

Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Bercut-Richards Cold Storage 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>No. of Square Feet of Floor Space</u>
Sacramento	78,000

(The floor space shown above is exclusive of the  
expansion permissible under Section 1051 of the  
Public Utilities Code.)

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 74557, Application No. 50439.