

Decision No. 74847

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of ECKDAHL WAREHOUSE CO., a corpo-)
ration, for authority under)
Section 454 of the Public Utilities)
Code to increase rates in its)
Warehouse Tariff Cal P.U.C. No. 6)
(series of A. Meyers, doing business)
as Eckdahl Warehouse).

Application No. 49913
(Filed December 28, 1967;
Amended April 4, 1968)

In the Matter of the Application of)
ECKDAHL WAREHOUSE CO., a corpora-)
tion, for approval of the increased)
warehouse space within Los Angeles)
County.

Application No. 49915
(Filed December 28, 1967)

Phil Jacobson, for applicant.
James Quintrall, for Los Angeles Warehousemen's
Association, interested party.
Joseph Braman, for the Commission staff.

O P I N I O N

By Application No. 49913, as amended, Eckdahl Warehouse Co. (Eckdahl), a corporation, seeks authority to increase its public utility warehouse rates and charges. By Application No. 49915 Eckdahl seeks authorization for increased public utility warehouse space in Los Angeles County.

Public hearing of the two applications was held on a common record before Examiner Bishop in Los Angeles on July 12, 1968. Evidence was presented through three witnesses: applicant's president, its transportation consultant and its accountant. Representatives from Los Angeles Warehousemen's Association and the Commission's Transportation Division staff assisted in the development of the record through examination of the witnesses.

The record shows the following facts: Prior to 1959, and as early as 1934, A. Meyers, doing business as Eckdahl Warehouse Co., operated as a public utility warehouseman in Los Angeles. On September 9, 1959, by Decision No. 59058 A. Meyers was authorized to transfer his certificate of public convenience and necessity to Eckdahl Warehouse Co., a corporation.^{1/} Effective November 14, 1959 the corporation adopted the warehouse tariff of Meyers, which had been in effect since December 20, 1934. The corporation was owned 100 percent by Meyers.

In August 1962 A. Meyers died, and the corporation became an asset of his estate. In 1964 a son, Don Meyers, purchased the corporation and, as president, entered into direct management of the business. He had never before had any experience in the warehouse business, having devoted his time for some years prior to 1964 to drayage and freight forwarder operations.

Recently, through inquiry of a Commission staff member, it came to light that applicant's warehouse tariff, Cal P.U.C. No. 6 (series of A. Meyers, dba Eckdahl Warehouse Co.) had neither been amended nor reissued since 1934. Later it developed that applicant was currently assessing warehouse rates which were higher than those set forth in said tariff.

Promptly after it came to the attention of applicant's president that rates different from those set forth in its published and filed tariff were being observed, Application No. 49913 was filed. In it applicant seeks authority to increase its warehouse rates and charges to the levels currently being observed.^{2/}

1/ The certificate had been acquired by Meyers from G. and E. B. Eckdahl by Decision No. 27582, dated December 10, 1934.

2/ The proposed rates and charges are set forth in the application, as amended.

A. 49913, 49915 ds

The sought rates are characterized as the same as those now in effect generally among other warehouses in the Los Angeles area as set forth in California Warehouse Tariff Bureau, Tariff No. 28-A, and in some instances reflect the levels of charges named in the Commission's Minimum Rate Tariff No. 5 (Los Angeles area minimum drayage rates and charges).^{3/} Comparison of the published and proposed rates for storage, for example, shows that the levels of the latter are approximately three times the levels of the former, reflecting increases of approximately 200 percent.

The record further shows that applicant's certificate and tariff are restricted to the performance of public utility warehouse services for furniture and commodities generally handled in connection with the furniture business; and that applicant's warehouse business is accessory to its activities in the pool car distribution of new furniture.

The certificate of public convenience and necessity issued to the predecessors of A. Meyers, dba Eckdahl Warehouse Co., by Decision No. 22257, authorized the conduct of the indicated warehouse business at 934 East 61st Street, Los Angeles, in a building containing 14,000 square feet. In 1945 the business was moved from that location to 250 North Myers Street, Los Angeles, where A. Meyers had warehouse space under lease. Thereafter, leases were executed with Santa Fe Land Improvement Company for additional warehouse space. Presently said warehousing is conducted at 243 South Santa Fe Avenue, Los Angeles (84,000 square feet), and at 123 South Santa Fe Avenue, Los Angeles (49,000 square feet), making a total of 133,000 square feet of warehouse space. No public utility warehousing is carried on at 250 North Myers Street.

^{3/} A proposed charge of 72 cents per 100 pounds for receiving, storing and removal of shipments from warehouse is higher by three cents than the corresponding charge named in Minimum Rate Tariff No. 5.

About the time when applicant's president became aware that the company was assessing warehouse rates which were different from and higher than those named in its tariff, his attention was called to the fact that the expansion of warehouse space from the original area of 14,000 square feet to the enlarged area which took place prior to his purchase of the business was made without the necessary authorization from this Commission, and that like authorization should also have been sought by applicant prior to making further expansion of public utility warehouse facilities to the present aggregate of 133,000 square feet.^{4/}

Promptly upon being so informed, applicant's president arranged for it to file Application No. 49915. Therein authority is sought to continue to use the present warehouse space at 123 South Santa Fe Avenue and 243 South Santa Fe Avenue, such space not to exceed 140,000 square feet, as an expansion of the original authority granted by Decision No. 22257.

Exhibits introduced by the accountant showed applicant's operating results for the years 1965, 1966 and 1967. Book records in the past have not shown results of operation of the warehouse services separately from those of its carrier operations. The witness stated, however, that this would be done in the future. For the year 1967, the following figures reflect combined operating results for carrier and warehouse operations:

Revenues	\$659,760
Expenses	<u>685,035</u>
Deficit	\$(25,275)

^{4/} Section 1051 of the Public Utilities Code states, in part, "No such warehouseman shall add to, extend, or otherwise increase his storage or warehouse floorspace by more than 50,000 square feet, without first having obtained from the commission a certificate declaring that public convenience and necessity require or will require such addition or extension or increase of such storage or warehouse floorspace...."

However, applicant engages also in equipment leasing operations, from which net revenue of \$57,076 was derived in 1967, resulting in net income, before interest income and expense, of \$49,597 for the company's operations as a whole.

The accountant had broken down the expense figures of the combined carrier and warehouse operations for 1967 to determine operating results separately for the latter. In doing this he had the assistance of a member of the Commission's Finance and Accounts Division staff. Segregations of direct expenses were made, and allocations of overhead expense were worked out on such bases as appeared reasonable and proper. The estimated results of the public utility warehouse operations of applicant for 1967, thus developed, are summarized as follows:

<u>Revenues</u>	
Storage	\$ 41,558
Handling	56,590
Total	<u>\$ 98,148</u>
<u>Expenses</u>	
Direct	\$105,454
Administrative and General	18,689
Total	<u>\$124,143</u>
Net Loss	\$(25,995)

It appears from the foregoing figures that applicant's warehouse business in 1967 incurred a substantial loss, that its carrier operations about broke even and that its equipment leasing activities carried the other phases of the company's business.

The president testified that no complaints had been received either as to the rates being assessed or concerning the utility's occupancy of enlarged warehouse facilities. Notices of the hearing to be held in these matters were sent by applicant well in advance to 34 concerns located in the various furniture manufacturing sections of the country. The president testified

that these include all major storers and that a few minor storers may have been overlooked.

No one appeared in opposition to the granting of either of the applications here in issue. The representative of the Los Angeles Warehousemen's Association stated that the Association does not object to the sought enlargement of operating authority, with the understanding that the commodities to be stored be restricted to those embraced by the present certificate. The Association, he stated, supports the proposed increases in published rates and charges.

We find that:

1. Applicant has, for an undetermined period, been assessing rates and charges different from and higher than those set forth in its published and filed public utility warehouse tariff.

2. Applicant has, for several years past, utilized warehouse space for public utility storage in excess of that authorized by its certificate of public convenience and necessity and by the Public Utilities Code.

3. Failure of applicant, in performing the acts stated in Findings 1 and 2 to observe the requirements of the law, appears to be the result of ignorance, rather than willful intent.

4. The rates and charges proposed in Application No. 49913, as amended, to be published and filed are the same as applicant was assessing as of the date of hearing in these matters, and are substantially the same as those observed by other warehousemen in the Los Angeles area.

5. In 1967 applicant conducted its public utility warehouse operations at a loss.

A. 49913, 49915 ds

6. The increased rates and charges proposed in Application No. 49913, as amended, are just and reasonable.

7. Public convenience and necessity require that Application No. 49915 be granted.

We conclude that Application No. 49913, as amended, and Application No. 49915 should be granted and that the certificate acquired by applicant by Decision No. 59058 should be revoked.

Applicant is hereby admonished that the Commission will not tolerate willful violations of the statutes which it is charged to administer. Applicant will be expected, in the conduct of its public utility warehouse business, to comply fully with the requirements of the governing statutes and of the applicable rules established by the Commission. Failure to so comply will operate to subject applicant to the penalties of the law.

Eckdahl Warehouse Co. 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. Applicant is authorized to establish the increased rates and charges proposed in Application No. 49913, as amended.

2. The authority granted in ordering paragraph 1 shall be subject to the express condition that applicant will never urge before the Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that the opinion and order herein constitute a finding of fact of the reasonableness of any particular rate or charge, and that the filing of rates and charges pursuant to the authority herein granted will be construed as a consent to this condition.

3. A certificate of public convenience and necessity is granted to Eckdahl Warehouse Co., 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.

4. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (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.
- (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.

5. The certificate of public convenience and necessity granted in ordering paragraph 3, above, shall supersede the certificate of public convenience and necessity acquired by Decision No. 59058, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 4(b) hereof.

6. The authority granted in ordering paragraph 1, above, shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California, this 22nd day of OCTOBER, 1968.

William Symons, Jr.
President
E. L. Dettler
William L. Bernal
Augusta
Jack P. Morrissey
Commissioners

Eckdahl Warehouse Co., 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 storage or warehouse floor space, restricted to furniture and commodities generally handled in connection with the furniture business, as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
City of Los Angeles	140,000

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 74847, Application No. 49915.