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Decision No. 77070

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates and practices of CALIFORNIA SYRUP & EXTRACT COMPANY, a corporation, doing business as EMERYVILLE TRANSPORTATION COMPANY.

Case No. 8988  
(Filed October 28, 1969)

In the Matter of the Application of THE CALIFORNIA SYRUP & EXTRACT COMPANY, a corporation doing business as EMERYVILLE TRANSPORTATION COMPANY, for a certificate of public convenience and necessity as a public warehouseman for the storage of liquid sweeteners in bulk in tanks in Emeryville, California.

Application No. 51626  
(Filed January 14, 1970)

Vaughn, Paul & Lyons, by John G. Lyons, for California Syrup & Extract Company, respondent and applicant.  
Elmer Sjostrom, Counsel, and E. E. Cahoon, for the Commission staff.

O P I N I O N

By its order dated October 28, 1969, the Commission instituted an investigation into the operations, rates and practices of California Syrup & Extract Company, doing business as Emeryville Transportation Company, for the purpose of determining whether respondent is operating as a public utility within the definition of Sections 216, 239, 2507, 2508 and 1051 of the Public Utilities Code.

By the within application California Syrup & Extract Company seeks a certificate of public convenience and necessity, pursuant to Section 1051 of the Public Utilities Code authorizing operations as a warehouseman for the storage of liquid sweeteners in bulk in tanks in 3,000 square feet of space at Emeryville, California.

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The investigation and application were consolidated for hearing on a common record which was held at San Francisco before Examiner O'Leary on January 21, 1970, at which time the matters were submitted.

The evidence adduced discloses that California Syrup & Extract Company has been engaged in the business of handling and storing corn syrup for approximately 15 years. It presently has 26 tanks for the storage of corn syrup, five of the tanks are owned by one of its customers and the remainder are owned by California Syrup & Extract. The capacity of the individual tanks varies from a low of 12,000 gallons to a high of 64,000 gallons. The total capacity of all the tanks is one million gallons.

California Syrup & Extract Company presently is providing storage of corn syrup for nine customers under written contract. Its president testified that no other firm in Northern California provides a similar service.

The staff presented evidence that during the period, February 1, 1969 to May 6, 1969, California Syrup & Extract Company received 105 tank cars containing syrup for storage. The staff witness testified that he examined the heading of Corn Products listed in the classified telephone directory (yellow pages) for San Francisco dated September 1968 and for Los Angeles dated August 1968 and that said examination disclosed that the six firms listed in the San Francisco directory and that five of the eight firms listed in the Los Angeles directory were storage customers of California Syrup & Extract Company.

The balance sheet of California Syrup & Extract Company as of October 31, 1969, discloses total assets of \$2,296,845 offset by total liabilities of \$1,792,799 and a net worth of \$504,046.

Based on the evidence adduced the Commission finds:

1. California Syrup & Extract Company has been engaged in the business of storage of syrup for approximately fifteen years.
2. California Syrup & Extract Company presently is storing syrup for nine customers.
3. California Syrup & Extract Company possesses the necessary financial means and ability to continue the service.
4. Public convenience and necessity require the granting of the application.

The Commission concludes that California Syrup & Extract Company, doing business as Emeryville Transportation Company, is engaged in the business of a warehouseman as defined in Section 239(c) of the Public Utilities Code and that the application should be granted.

California Syrup & Extract Company 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 the California Syrup & Extract Company, a corporation, doing business as Emeryville Transportation Company, as a public utility warehouseman, as defined in Section 239(c) 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. California Syrup & Extract Company shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodities of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

3. In providing service pursuant to the certificate herein granted, California Syrup & Extract Company 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.

4. California Syrup & Extract Company, doing business as Emeryville Transportation Company, shall cease and desist from all warehouse operations if it does not accept the certificate and file tariffs as required by Ordering Paragraph 3.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of APRIL, 1970.

William Sproull, Jr.  
President

Augusta

[Signature]

Vernon L. Sturgeon  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

THE CALIFORNIA SYRUP & EXTRACT  
COMPANY  
(a corporation)  
dba  
EMERYVILLE TRANSPORTATION COMPANY

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California Syrup & Extract Company, a corporation, doing business as Emeryville Transportation Company, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(c) of the Public Utilities Code for the storage of liquid sweeteners in bulk in tanks.

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Emeryville	3,000

(The floor space 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.

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