ORIGINAL

Decision No. ____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BEALL REFRIGERATING CO., BERCUT-RICHARDS COLD STORAGE CO., CRYSTAL ICE AND COLD STORAGE WAREHOUSE, LINCOLN COLD STORAGE COMPANY, INC., MERCHANTS REFRIGERATING COMPANY OF CALIFORNIA, MODERN ICE & COLD STORAGE CO., RELIANCE COLD STORAGE WAREHOUSE CO., INC., SANTA CLARA COLD STORAGE & FREEZER CO., TURLOCK REFRIGERATING COMPANY, UNION ICE & STORAGE COMPANY, UNITED STATES COLD STORAGE OF CALIFORNIA, and WESTERN REFRIGERATING & COLD STORAGE COMPANY for an Increase in Rates.

78893

Application No. 52434 (Filed February 5, 1971)

 Vaughn, Paul and Lyons, by John C. Lyons, Attorney at law, and Jack L. Dawson, for applicants.
 <u>William D. Mayer</u>, for Canners League of California, interested parties.
 <u>Milton J. DeBarr</u> and <u>Robert W. Stich</u>, for the Commission staff.

<u>O P I N I O N</u>

Applicants are cold storage warehousemen operating public utility warehouse facilities at various locations in northern California. The locations of applicants' warehouses and the tariffs applicable to such locations are set forth in Appendix A.

The application alleges that applicants' present rates do not yield revenues sufficient in amount to allow applicants to conduct their warehouse operations at a reasonable profit. The application avers that, in order to obtain the necessary revenues to enable applicants to continue in business and to render an adequate and sufficient service to the public, they will require increases in their rates to the following extent:

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(A) To increase by 10 percent applicants' rates and charges named in:

- California Warehouse Tariff Bureau Cold Storage Warehouse Tariffs Nos. 19 and 20, Cal. P.U.C. Nos. 228 and 229, of Jack L. Dawson, Agent.
- (2) California Warehouse Tariff Bureau Precooling Warehouse Tariff No. 21, Cal. P.U.C. No. 230, of Jack L. Dawson, Agent.
- (3) Lincoln Cold Storage Company, Inc., Cold Storage Warehouse Tariff No. 5, Cal. P.U.C. No. 5.
- (4) Merchants Refrigerating Company of California Cold Storage Warehouse Tariff No. 2, Cal. P.U.C. No. 2.
- (5) Union Ice & Storage Company Cold Storage Warehouse Tariff No. 21-B, Cal. P.U.C. No. 35.
- (6) Western Refrigerating & Cold Storage Company Cold Storage Warehouse Tariffs Nos. 2 and 3, Cal. P.U.C. Nos. 2 and 3.

(B) To cancel California Warehouse Tariff Bureau Cold
Storage Warehouse Tariffs Nos. 7-H and 9-F, Cal. P.U.C. Nos.
191 and 204, of Jack L. Dawson, Agent, and add:

- Western Refrigerating & Cold Storage Company, dba Tracy Ice & Development Co. at Tracy, California, as a participant to California Warehouse Tariff Bureau Cold Storage Warehouse Tariff No. 19, Cal. P.U.C. No. 228, as proposed to be amended by this application.
- (2) Western Refrigerating & Cold Storage Company, San Martin, as a participant to California Warehouse Tariff Bureau Cold Storage Warehouse Tariff No. 20, Cal. P.U.C. No. 229, as proposed to be amended by this application.

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(C) To increase by 10 percent the rates and charges named in Items Nos. 110 and 115 of Merchants Refrigerating Company of California Cold Storage Warehouse Tariff No. 1, Cal. P.U.C. No. 1; and in Item No. 20 of Turlock Refrigerating Company Cold Storage Warehouse Tariff No. 4, Cal. P.U.C. No. 4.

The application states that all but three of the applicants last applied before the Commission for a general rate increase in Application No. 50102, which resulted in Decision No. 74480 dated July 30, 1968, granting those applicants an increase in rates and charges which became effective August 19, 1968. Applicant Western Refrigerating & Cold Storage Company obtained its last general rate increase for its San Martin operations by Decision No. 63787 dated June 4, 1962, in Application No. 43877, and its increased rates and charges became effective July 5, 1962. The present rates of Western Refrigerating & Cold Storage Company at Santa Maria and Tracy and of Turlock Refrigerating Company at Turlock have been effective without a general increase since at least 1960; the rates of Merchants Refrigerating Company of California at Modesto have been effective without a general increase since at least 1955; and the rates of Merchants Refrigerating Company of California at Salinas have been effective without a general increase since 1963.

Public hearing was held before Examiner Mallory on May 12 and 13, 1971 at San Francisco and the application was submitted on the latter date. Evidence was adduced on behalf of applicants and the Commission staff. The Commission staff recommended that the sought rate increases be denied with respect to Turlock Refrigerating Company of Turlock and the Modesto location of Merchants Refrigerating Company of California, and that the balance of the sought rate increases be granted.

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Evidence in support of the requested increases was presented by applicants' tariff agent and by several individual warehouse officials. A joint report was presented by a financial examiner and transportation rate expert from the Commission's Finance and Accounts and Transportation Divisions, respectively.

The principal portion of applicants' and the staff showing is summaries of operating revenues, expenses and net income from public utility cold storage warehouse operations, on an historical basis, and for a test year under current operating expenses and present and proposed rates. The historical periods used by the witness for applicants and by the staff financial examiner are different. Both witnesses developed their test-year operating results to reflect wage costs which became effective during 1970. The record shows that additional wage increases which have or will become effective in 1971 pursuant to collective bargaining agreements are not reflected in test-year operating results of applicants or the staff.

The revenue and expense studies introduced by applicants and the staff contain adjustments from book figures to remove nonutility revenues and expenses; where applicable, to utilize straight line depreciation to compute operating expenses (although the staff utilized liberalized depreciation, as hereinafter explained, to compute income taxes for rate-making purposes); and, where applicable, to replace plant rent paid to an affiliate with the substituted ownership costs for such facilities. In addition, the staff deleted <u>dues and donations from operating expenses.</u> Applicant

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^{1/} Exhibit 2 shows that 1970 average wage costs exceed 1968 average wage costs in CWTB Tariff 19 area (Sacramento-San Joaquin Valley) by 13.2%, and in CWTB Tariff 20 area (San Jose-Santa Cruz) by 15.2%.

computed income taxes as if the warehouse operations under consideration herein were separate companies. Applicants' witness gave no consideration to interest paid by the warehouse, its affiliates, or parent; nor to accelerated depreciation for tax purposes. The staff attempted to develop income taxes on an "as paid" basis, when the necessary information was available. Several warehouses are affiliated with other warehouses or are subsidiaries of non-public utility companies. When consolidated tax returns for the latter type of warehouse operations were available for review by the staff, taxes on an "as paid" basis were developed; when such information was not available, the staff computed income taxes as if the warehouse company was a single tax-paying entity.

Included in the rate base calculations submitted by applicants and by the staff is provision for working cash. The figure used by applicants is two-months' operating expenses less depreciation. The staff used one-month's expenses, less depreciation. Officials of several warehouse companies and applicant's financial witness testified with respect to applicants' working cash requirements. It is their view, based on practices in prior warehouse increase proceedings, based on the lag in payment of charges over receipt of revenues, and based on the extreme seasonal variations in service requirements, that at least two months' operating expenses (less depreciation) are needed for working capital. The staff report contains rate base figures which include working capital based on one-month's operating expenses (less depreciation).

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^{2/} The staff has treated for rate-making purposes accelerated depreciation and other factors bearing on income tax expense in a manner consistent and in accord with past Commission policy in warehouse proceedings.

Neither of the staff witnesses testifying with respect to the staff report indicated that he was qualified to explain or substantiate the basis for the amounts included in said report for the working cash component of rate base. The staff representative from the Commission's Transportation Division argued that, based on his summation of the data furnished in cross-examination of applicants' operating witnesses, the net time that funds for working cash are required to be supplied by individual operators varies from 21 to 45 days. The staff representative argued these data center on a 30-day lag period, and the provision for working cash based on one-month's operating expenses is consistent with such lag period.

The historical revenue and expense data submitted by applicants are for various periods, as 1970 calendar year data were not available when the application was filed. The staff developed revenue and expense data for nine of the twelve applicants. The nine selected warehousemen had combined revenues equal to 93.1 percent of the total revenues of all applicants.

The following table summarizes the actual operating results for the 1970 calendar year, adjusted as indicated above, as set out in the staff report.

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Table 1

Tariffs 19 and 7-H	(AFTER TAXES) Net Oper. Cper. Return On Net Income Ratio(%) Plant Inv.(%)
Bercut-Richards	\$ 25,300 91.94 7.99
Crystal Ice	(226) 100.11 -
Union Ice	3,696 100.76 -
U. S. Cold Storage	18,971 92.34 5.62
Total For Group	\$ 40,349 96.80 2.39
Tariffs 20 and 9-F	
Merchants Refrigerating	\$ (20,062) 104,82
Modern Ice	6,760 99.09 1.48
Santa Clara Cold Storage	12,859 95.70 1.87
Union Ice	35,070 94.27 3.56
Western Refrigerating	32,005 90.84 5.18
Total For Group	\$ 66,632 97.25 2.27
<u>Santa Maria - Salinas Area</u>	
Western Refrigerating	\$ 62.040 92.75 4.40
Merchants Refrigerating	60,200 90.08 4.63
Total For Group	\$ 122,240 91.64 4.51
<u>Turlock - Modesto Area</u>	
Turlock Refrigerating Co.	\$ 120,093 82.83 14.33
Merchants Refrigerating	351,003 81.42 18.14
Total For Group	\$ 471,096 81.80 16.99

(Loss)

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The staff financial witness testified that staff engineers had developed projected test-year operating results for nine applicants, all of which are not shown in the staff report. That witness and the staff rate expert reached the following conclusions based on analyses of actual operating results and the aforementioned test-year projections.

The staff report concluded that the rate increases requested by Turlock Refrigerating Company of Turlock and Merchants Refrigerating Co. of California at its Modesto location are not warranted and should be denied, because these warehouse locations have at least adequate earnings under present rates. The staff rate expert testified that, although he agreed with the general concept of rate uniformity where two of the warehouses seeking an increase in rates have rates of return higher than necessary, if uniformity is to be sought by increasing a particular rate, the two warehouses should obligate themselves to reduce other rates to avoid excessive returns.

The report concludes that with respect to the remaining applicants, the sought rate increases will not result in unreasonable levels of earnings as measured by either operating ratio or earnings on net plant investment or rate base.

Included in the staff report are the test-year estimated operating results for Turlock Refrigerating Company of Turlock and Merchants Refrigerating Company of California's operations at Modesto. These estimates are shown in the following table.

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TABLE 2

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ESTIMATED RESULTS OF OPERATIONS TURLOCK AND MODESTO WAREHOUSES YEAR ENDED 12-31-70

	Turlock Refrigerating Company Turlock	Merchants Refrigerating Co. of Calif. Modesto	
Under Present Rates and Revised Expenses			
Operating Revenue	\$ 699,634	\$ 1,889,285	\$ 2,588,919
Operating Expenses	483,988	1,261,885	1,745,873
Net Operating Income before Income Taxes	21.5,646	627,400	843,046
Provision for State & Federal Income Taxes	104,859	316,665	422,524
Operating Expenses after Income Taxes	588,847	2,578,550	2,167,397
Net Operating Income after Income Taxes	110,787	310,735	421,522
Rate Base	870,648	2,555,274	3,425,822
Operating Ratio - After Taxes	84.17%	83-55%	83.72%
Rate of Return - After Taxes	12.72%	12.16%	12_30%
Under Proposed Rates and Revised Expenses			
Operating Revenue	\$ 704,322	\$ 1,973,169	\$ 2,677,491
Operating Depenses	483,988	1,261,885	1,745,873
Net Operating Income before Income Taxes	220,334	712,284	931,618
Provision for State & Federal Income Taxes	107,280	359,983	467,263
Operating Expenses after Income Taxes	591 <i>,2</i> 68	1,621,368	2,213,136
Net Operating Income after Income Taxes	223,054	351,302	464,356
Rate Base	870,648	2,555,174	3,1:25,322
Operating Ratio - After Taxes	83.95%	82.20%	82.65%
Rate of Return - After Texes	12.99%	13.75%	13.55%

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Applicants' exhibits show the following estimated earning for operations under proposed rates and 1970 level of wage costs:

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	(AFTER TAXES)				
	Net Oper. Income	Oper. Ratio(%)	Return on Rate Base		
Sacramento-Stockton-Tracy					
Bercut-Richards Crystal Ice Lincoln Reliance Union Ice (Chico and Stockton) U. S. Cold Storage Western Refrig. (Tracy) TOTAL OF GROUP	\$ 14,898 25,340 1,485 14,320 64,773 9,427 26,256 \$ 156,499	98.4 79.6	6.0 6.6 0.9 20.4 7.4 2.4 8.7 6.4		
San Jose-Santa Clara-Santa Cruz					
Beall Refrig. Merchants (Santa Clara) Modern Ice Santa Clara Cold Storage Union Ice (San Jose-Santa Cruz) Western Refrig. (San Martin) TOTAL OF GROUP	<pre>\$ (17,113) 15,230 24,475 6,488 55,552 39,381 \$ 124,013</pre>	97.1 97.0 97.9 90.9 89.7	5.7 4.1 0.9 5.0 5.9 3.4		
<u>Santa Maria-Salinas</u>					
Western Refrig. (Santa Maria) Merchants (Salinas) TOTAL OF GROUP	\$ 97,116 62,230 \$ 159,346	90.5	6.3 4.4 5.1		
TOTAL OF ABOVE WAREHOUSES	\$ 439,858	93.0	4.8		
Turlock-Modesto					
Turlock Refrig. Merchants (Modesto) TOTAL OF GROUP	\$ 98,369 285,476 \$ 383,845	85.6 84.9 85.1	10.4 10.4 10.4		
TOTAL ALL WAREHOUSES	\$ 823,703	90.7	6.4		

TABLE 3

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(Loss)

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Applicants presented the following testimony in rebuttal to the staff recommendation that increases be denied at Turlock and Modesto. The rate increases sought at Modesto and Turlock are for the purpose of maintaining an equalization of rates for volume-lot quick-freezing and storage at these locations with the sought rates for the same services at other locations of the applicant warehousemen. The witness explained that a large packer of frozen fruits and vegetables uses the services and facilities of applicants at Modesto, Santa Cruz, Santa Maria and Salinas, and that a difference in rates at these locations would cause the packer to shift its traffic to the location with the lowest rate. The witness pointed out that the volume cold storage rates at these four locations are lower than those maintained by other applicants, and have not been increased for several years.

Applicants' witness pointed out that the sought increase in revenues amounts only to about \$4,500 annually at the Turlock warehouse; that this warehouse is the closest to Modesto and competes strongly with that warehouse location for frozen foods business; and that the operating ratio and rate of return which is estimated to result from the proposed rates fall within a zone of reasonableness for cold storage operations, considering the risks involved. Applicants argue that risks are greater than for regulated monopoly utilities because of the competition from other public warehouses and because the principal users of cold-storage services are large food packers which have the resources to build and operate their own facilities.

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Applicants argue further that in testing the reasonableness of an applicant's earnings, one warehouse location of an applicant should not be considered separately from other locations of the same company. They point out that Merchants Refrigerating Company of California operates at Salinas and Santa Clara, as well as at Modesto. Applicants urge that the overall operating results of Merchants' three locations do not result in excessive earnings under the rates proposed herein. They state that there is a long line of decisions wherein high earnings on one segment of a utility's business is permitted because such earnings offset less than reasonable earnings on another segment of the utility's operations (See <u>Greyhound Lines</u>, <u>Inc.</u>, 68 Cal. P.U.C. 574). They point out that Merchants' operations at Santa Clara are currently being conducted at a loss. <u>Findings and Conclusion</u>

The Commission finds as follows:

1. Collectively, applicants' public utility cold storage warehouse operations under consideration herein at present rates and 1970 level of wage costs will result in an operating profit after taxes of \$398,455, with a corresponding operating ratio of 95.1 percent and a return on rate base of approximately 3.1 percent (Exhibit 1). The foregoing indicates that collectively applicants' earnings are below a reasonable level, and applicants are in need of additional revenues.

2. The rate increases proposed herein will not result in unreasonable earnings for applicants' operations, exclusive of those operations conducted in Modesto and Turlock (Table 3).

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• • •, 3. The estimates of test-year operations at 1970 levels of wage costs for warehouse operations at Modesto and Turlock indicate that operations under present rates will return adequate returns for such warehouse locations (Table 2), and that increased revenues from proposed rates are not urgently required for said warehouse locations.

4. In considering whether increased rates proposed herein will produce excessive earnings, the entire operations of the warehouse company should be considered, rather than a single location. The staff exhibit does not contain estimates of operating results for the three locations of Merchants Refrigerating Company of California. Applicant's estimates, set forth in its Exhibits 1 and C, show the following combined operating results for Merchants' locations at Salinas, Santa Clara and Modesto:

	Present Rates and Adjusted Expenses	Proposed Rates and Adjusted Expenses
Operating Revenues	\$2,876,698	\$3,063,473
Operating Expenses (After Taxes)	2,610,588	2,705,283
Rate Base	4,394,136	4,406,167
Rate of Return	6.13%	8.13%
Operating Ratio (After Taxes)	90.7%	83.3%

The foregoing combined rate of return is 8.13 percent under proposed rates, as compared with a 10.4 percent rate of return for Merchants' Turlock operations alone, as set forth in Table 3. Merchants' overall rate of return, thus, is approximately 2.3 percentage points less than for its Turlock location. The overall return indicates that Merchants' earnings as a company will not be excessive under proposed rates.

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5. The record demonstrates that Modesto, Santa Maria, Santa Cruz and Salinas warehouse locations serve, among others, a single large packer of frozen vegetables and fruits. Rates for frozen vegetables and fruits in volume lots at said locations are now maintained on the same levels, and also would be on the same levels under rates proposed herein. Lower rates at one of these locations than at another would cause the shift of business away from the warehouse locations having the higher rates to the point having the lower rates (in this case, Modesto). The warehouses located at Santa Maria, Santa Cruz and Salinas are in need of the additional revenues to be realized from the proposed rates, and loss of revenues from diversion of traffic to another warehouse location would adversely affect the earnings of said warchousemen.

6. The annual revenue increase from proposed rates at Turlock is relatively small (\$4,500). Turlock is the nearest cold storage warehouse location to Modesto and must maintain rates on the same level as Modesto to avoid diversion of traffic to it.

7. The proposed increased rates at Modesto and Turlock will maintain a balance in competitive opportunity between said warehouse locations, on the one hand, and other warehouse locations involved in this application, on the other hand.

8. The increases resulting from the rates sought in the application herein are justified. Said increased rates will not provide excessive earning to any applicant.

9. It is not necessary to determine the appropriate amount of working cash to be included as a component of rate base in order to resolve the issues raised herein.

The Commission concludes the application should be granted.

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<u>O R D E R</u>

IT IS ORDERED that:

1. Applicants, Beall Refrigerating Co., Bercut-Richards Cold Storage Co., Crystal Ice and Cold Storage Warehouse, Lincoln Cold Storage Company, Inc., Merchants Refrigerating Company of California, Modern Ice & Cold Storage Co., Reliance Cold Storage Warehouse Co., Inc., Santa Clara Cold Storage and Freezer Co., Turlock Refrigerating Company, Union Ice & Storage Company, United States Cold Storage Company of California and Western Refrigerating & Cold Storage Company are authorized to:

A. Increase by 10 percent applicants' rates and charges named in:

- California Warehouse Tariff Bureau Tariffs Nos. 19, 20 and 21, Cal. P.U.C. Nos. 228, 229 and 230 of Jack L. Dawson, Agent.
- (2) Lincoln Cold Storage Co., Inc. Tariff No. 5, Cal. P.U.C. No. 5.
- (3) Merchants Refrigerating Company of California Tariff No. 2, Cal. P.U.C. No. 2, (except as heretofore increased pursuant to the authorization contained in Cal. P.U.C. Order No. STD 6753 of March 16, 1971).
- (4) Union Ice & Storage Company Tariff No. 21-B, Cal. P.U.C. No. 35.
- (5) Western Refrigerating & Cold Storage Company Tariff Nos. 2 and 3, Cal. P.U.C. Nos. 2 and 3.

B. Cancel California Warehouse Tariff Bureau Tariffs Nos. 7-H and 9-F, Cal. P.U.C. Nos. 191 and 204 of Jack L. Dawson, Agent, and concurrently add:

> Western Refrigerating & Cold Storage Company, dba Tracy Ice & Development Co. at Tracy as a participant in California Warehouse Tariff Bureau Tariff No. 19, as amended herein.

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(2) Western Refrigerating & Cold Storage Company, San Martin, as a participant in California Warehouse Tariff No. 20, as amended herein.

C. Increase by 10 percent the rates and charges set forth in Items Nos. 110 and 115 of Merchants Refrigerating Company of California Tariff No. 1, Cal. P.U.C. No. 1; and in Item No. 20 of Turlock Refrigerating Company Tariff No. 4, Cal. P.U.C. No. 4.

2. In effecting the proposed increases, fractions will be disposed of as follows:

When the resulting rate is under 10 cents, dispose of fractions to the nearest mill, by dropping fractions of less than one-half mill and increasing fractions of one-half mill or greater to the next whole mill.

When the resulting rate is 10 cents or greater, dispose of fractions to the nearest cent, by dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to the next whole cent.

3. Tariff publications authorized to be made as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than five days after the effective date hereof on not less than five days' notice to the Commission and the public.

4. The authority herein granted shall expire unless exercised within sixty 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	13-00
day	of		JULY	, 1971	••			

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Commissioners

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

Commissioner D. W. Holmes, being necessarily absent. did not participate in the disposition of this proceeding.

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Name	Location of Warehouses	Tariffs Applicable To Each: Location
Beall Refrigerating Co.	Santa Clara	4, 5
Bercut-Richards Cold Storage Co.	Sacramento	3, 5
Crystal Ice and Cold Storage Warehouse	Sacramento	3
Lincoln Cold Storage Company, Inc.	Lincoln	3, 6
Merchants Refrigerating Company of California	Salinas Santa Clara Modesto	4, 5 5, 7
Modern Ice & Cold Storage Co.	San Jose	4, 5
Reliance Cold Storage Warehouse Co., Inc.	Stockton	3
Santa Clara Cold Storage & Freezer Co.	Santa Clara	4, 5
Turlock Refrigerating Company	Turlock	5, 9
Union Ice & Storage Company	Chico San Jose Santa Cruz Stockton	3, 5 4, 5 4, 10 3, 5
United States Cold Storage of California	Marysville Sacramento	3, 5
Western Refrigerating & Cold Storage Company	San Martin Santa Maria Tracy	2, 3 11 1, 5

APPENDIX A

(Continued)

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CALIFORNIA WAREHOUSE TARIFF BUREAU WAREHOUSE TARIFFS OF JACK L. DAWSON, AGENT:

- 1. Cold Storage Warehouse Tariff No. 7-H, Cal. P.U.C. No. 191;
- 2. Cold Storage Warehouse Tariff No. 9-F, Cal. P.U.C. No. 204;
- 3. Cold Storage Warehouse Tariff No. 19, Cal. P.U.C. No. 228;
- 4. Cold Storage Warehouse Tariff No. 20, Cal. P.U.C. No. 229;
- 5. Precooling Warehouse Tariff No. 21, Cal. P.U.C. No. 230.

INDIVIDUAL TARIFFS:

- Lincoln Cold Storage Company, Inc., Cold Storage Warehouse Tariff No. 5, Cal. P.U.C. No. 5;
- Merchants Refrigerating Company of California Cold Storage Warehouse Tariff No. 1, Cal. P.U.C. No. 1;
- Merchants Refrigerating Company of California Cold Storage Warehouse Tariff No. 2, Cal. P.U.C. No. 2;
- 9. Turlock Refrigerating Company Cold Storage Warehouse Tariff No. 4, Cal. P.U.C. No. 4;
- Union Ice & Storage Company Cold Storage Warehouse Tariff No. 21-B, Cal. P.U.C. No. 35;
- Western Refrigerating & Cold Storage Company Cold Storage Warchouse Tariff No. 2, Cal. P.U.C. No. 2;
- Western Refrigerating & Cold Storage Company Cold Storage Warehouse Tariff No. 3, Cal. P.U.C. No. 3.