

ORIGINAL

Decision No. 79619

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 ACCURATE CARTAGE AND WAREHOUSING, INC.;  
 BAY CITIES WAREHOUSE COMPANY, INC.;  
 BECKMAN EXPRESS & WAREHOUSE CO.; BEKINS  
 WAREHOUSING CORP.; BENTLEY MOVING &  
 STORAGE CO.; CENTRAL WAREHOUSE & DRAYAGE  
 CO., INC.; CHICHESTER TRANSPORTATION  
 COMPANY, INC.; COAST DRAYAGE; CONSOLIDATED  
 DE PUE CORPORATION; Chester and George  
 Cassella and Elmo Cresta, dba DISTRIBUTORS  
 WAREHOUSE; Bradford G., Harold F. and  
 Morton G. Baruh, dba EAST BAY STORAGE CO.;  
 EMERY WAREHOUSE; ENCINAL TERMINALS;  
 GIBRALTAR WAREHOUSES; HASLETT COMPANY;  
 LYON VAN & STORAGE CO.; MARCANTELLI WARE-  
 HOUSE CO., INC.; John V. Fox, Jr.,  
 George F. Fox and Joseph T. Fox, dba JOHN  
 McCARTHY & SON.; OVERMYER OF SAN LEANDRO;  
 PACIFIC COAST SERVICE CO.; PASHA WAREHOUSES,  
 INC.; Distribution Centers, Inc., dba  
 RICHMOND DISTRIBUTION CENTER; RICHMOND  
 TRANSFER AND STORAGE COMPANY; SAN FRANCISCO  
 WAREHOUSE CO.; Malcolm W. Lamb, dba SOUTH  
 END WAREHOUSE COMPANY; STATE TERMINAL CO.,  
 LTD.; STEWART WAREHOUSES, INC.; THOMPSON  
 BROS., INC., dba The Dodd Warehouses, North  
 Point Dock Warehouses and Thompson Bros.,  
 Inc.; THOMPSON-DE PUE COMPANY, INC.; United  
 California Express & Storage Co., dba U.C.  
 EXPRESS & STORAGE COMPANY; Mario Giovannini,  
 dba UNION CITY WAREHOUSE; USCO SERVICES,  
 INC.; Alltrans Express California, Inc.,  
 dba WALKUP'S MERCHANTS EXPRESS; and WALTON  
 DRAYAGE & WAREHOUSE CO.; for an increase in  
 rates.

Application No. 52812  
 (Filed August 17, 1971)

Jack L. Dawson, Agent, California Warehouse Tariff  
 Bureau, for applicants.  
Joseph Cazessus, for Gibraltar Warehouse, Inc. and  
Armand Karp, for Alltrans Express California,  
 Inc., for individual applicants.  
Robert F. Schafer, for MJB Co. and Western Can Co.,  
 interested party.  
Milton J. DeBarr, F. W. Foley, and Alan Silvius,  
 for the Commission staff.

INTERIM OPINION

In this application 34 public utility warehousemen operating in the San Francisco - East Bay Area seek an interim surcharge increase in all rates and charges set forth in various California Warehouse Tariff Bureau tariffs in which they participate, to become effective on five days' notice. Applicants request that this proceeding be kept open for the receipt of additional evidence concerning further rate increases to be sought upon completion of detailed studies now being undertaken by applicants. In the interim phase of this proceeding, applicants seek to recover in the form of increased revenues the annualized increase in their operating expenses resulting from increased wages for plant and clerical employees effective in 1970 and 1971 pursuant to collective bargaining agreements, to the extent such wage increases were not previously considered by the Commission. Applicants' rates were last adjusted pursuant to Decision No. 77586, dated August 11, 1970. That decision reflects wages and related expenses as of January 1, 1970.

Public hearing on applicants' request for interim relief was held before Examiner Mallory at San Francisco on November 22 and 23, 1971, and the request for interim relief was submitted. Evidence in support of the relief sought was presented by applicants' tariff agent and confirmed by representatives of eight applicant warehousemen. A representative of the Commission's Finance and Accounts Division also testified. The relief sought is opposed by Miles Laboratories, Incorporated.

The testimony of applicants' tariff agent is summarized in the following statements. A notice was mailed to their customers by each of the applicants concerning the proposed increase and advising the storers of the hearing herein. Except as hereinafter noted, the warehousemen received no responses to said notice.

In prior proceedings, the showings of applicants and of the Commission staff have reflected actual and test-year operating results of eight selected warehousemen considered to have public utility warehouse operations which are typical of applicants as a group. Said eight warehousemen account for 80 percent of the combined warehouse revenues of all applicants.

In the interim phase of this proceeding, applicants seek to recover in revenues the increases in wage and payroll costs occurring since the last adjustment of applicants' rates. Plant wages and payroll expenses are now \$1.02 per hour higher than those existing prior to June 1, 1970, and clerical wages and payroll expenses are \$1.38 per hour higher than those existing prior to April 1, 1970. None of said labor increases were considered in the last general rate increase granted to applicants in Decision No. 77586, supra. For the eight test warehousemen as a group, said labor cost increases amount to \$519,879 annually, and the sought 8 percent interim surcharge will produce an estimated annual revenue increase of \$507,094. Thus, applicants seek an increase in rates which is no greater than that required to offset increased labor costs. All of the labor cost increases became effective prior to July 2, 1971 and, therefore, are those which occurred before the President's executive price and wage freeze order.

Table 1, which follows, sets forth in summary form the tariff agent's estimates of the composite operating results of the eight selected warehousemen under present and proposed rates. The table reflects the actual results of operation for the year ended December 31, 1970 (year ended February 28, 1971 for Encinal Terminals), except that income taxes are computed as if each warehouseman conducted no non-utility operations and had no deductions from income for tax purposes. The actual 1970 operating results were adjusted to give effect to the aforementioned increases in wage and payroll costs, and to the increased revenues sought herein.

TABLE 1  
 APPLICANTS' ESTIMATED  
 PROFIT AND LOSS STATEMENT FOR TEST WAREHOUSES  
UNDER PRESENT AND PROPOSED RATES

	<u>Composite Total</u>
ACTUAL	
Revenue	\$ 5,894,249
Expenses	5,710,686
Profit or (Loss) BT	183,563
Taxes	136,832
Expenses AT	5,847,518
Profit or (Loss) AT	46,731
Operating Ratio AT	99.2%
REVENUE ADJUSTED TO PRESENT RATES AND EXPENSES ADJUSTED TO PRESENT COST	
Revised Revenue	\$ 6,338,671
Revised Expenses	6,240,359
Profit or (Loss) BT	98,312
Taxes	114,228
Expenses AT	6,354,587
Profit or (Loss) AT	(15,916)
Operating Ratio AT	100.3%
REVENUE ADJUSTED TO PROPOSED RATES AND EXPENSES ADJUSTED TO PRESENT COST	
Proposed Revenue	\$ 6,845,766
Revised Expenses	6,240,359
Profit or (Loss)BT	605,407
Taxes	308,625
Expenses AT	6,548,984
Profit or (Loss) AT	296,782
Operating Ratio AT	95.7%

BT Before Taxes

AT - After Taxes

Witnesses appearing for each of the eight test ware-  
 housemen confirmed the operating data shown in Table 1 for their

warehouses. Each testified that uniformity of rates between competing warehousemen is essential.

Applicants' exhibits show that under present cost levels and present rates, operating ratios after taxes for individual warehousemen will range from 94.5 to 127.3 percent; and four of the eight test warehousemen would experience operating ratios in excess of 100 percent. Said exhibits indicate that under present cost levels and the sought increased rates, operating ratios of the eight test warehousemen would range from 91.3 to 117.8 percent. Two of the warehousemen would have operating ratios over 100 percent (Encinal Terminals, 100.1 percent, and San Francisco Warehouse Co., 117.8 percent).

The tariff agent also presented an exhibit to show the composite operating ratios of the eight test warehousemen would not be more favorable under rates sought herein than under applicants' estimates of results of operation presented in Application No. 51461 and considered in Decision No. 77586, supra. The agent showed that his estimate in Application No. 51461 was that the test warehousemen as a group would enjoy an operating ratio (after taxes) of 94.4 percent, and his estimates in this proceeding produce an operating ratio of 95.7 percent. The agent stated that the estimate in Application No. 51461 was not achieved (see Table 1) because of added wage costs incurred in 1970 which were not considered in Decision No. 77586. The tariff agent testified that the estimated operating ratio of 95.7 percent under sought rates will not be achieved in 1971, because of additional contractual wage increases effective January 1, 1972. The witness stated that said wage increases will be permitted by the Federal Pay Board to go into effect on January 1, 1972 as scheduled. The wage increase to become effective January 1, 1972 is not reflected in applicants' showing herein.

A Financial Examiner from the Commission's Finance and Accounts Division presented an exhibit showing the data which

underlie Table 1 adjusted to reflect income taxes based on the effective 1969 tax rate of the individual warehousemen for their combined utility and non-utility operations and to eliminate the operating results of San Francisco Warehouse Company.

The staff witness challenged the method of tax computation used by applicants' tariff agent, because said method assertedly overstates the actual tax liability of the warehousemen. The staff witness stated that there was insufficient time allotted to the staff study to develop the effective tax rates of the eight warehousemen for the 1970 taxable year; therefore, he used the same tax rates as set forth in the staff's study introduced in Application No. 51461, supra. The staff exhibit shows that the composite operating ratio (after taxes) of the eight test warehousemen, when adjusted for the tax method recommended by the staff, would be 99.4 percent under present operating costs and present rates, and 94.2 percent under present costs and proposed rates.

The witness recommended that San Francisco Warehouse Company be eliminated because it had sustained public utility warehouse operating losses in recent years. The staff exhibit shows that the composite operating ratio for seven warehousemen (excluding San Francisco Warehouse Company) would be 92.8 percent under present costs and proposed rates.

The staff witness also stated that sufficient time was not allotted to the staff investigation in this proceeding to develop the factual data necessary to make a recommendation herein.

On November 22, 1971, a written protest was filed by Miles Laboratories, Inc. opposing the manner in which applicants seek to apply the proposed surcharge increase.<sup>1/</sup> Protestant urges

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<sup>1/</sup> Said protest was incorporated in the record (as argument) by stipulation. Exchanges of telegrams indicated that Miles Laboratories, Inc. (Elkhart, Indiana) was unable to be represented at the hearing.

that the requested increase is inflated in that it is proposed to be applied to total storage and handling charges, which in turn are composed of labor oriented (handling) costs, as well as non-labor oriented (storage) costs.

In rebuttal, applicants' tariff agent testified as follows: San Francisco Warehouse Company has had the poorest operating results of the eight test warehousemen for the past three years. However, prior to that time San Francisco Warehouse Company had enjoyed more favorable operating results than most of the other test warehousemen. The decline in net operating revenues for San Francisco Warehouse Company resulted from changed operations because of a fire which closed one building, and because of the loss of large accounts in recent periods. The witness pointed out that at various times over the years several of the test warehousemen had incurred losses. In past rate increase proceedings before this Commission different warehousemen were shown to have operating losses; those which were top earners before are now near the bottom, and vice versa.

The tariff agent urged that income taxes should not be determined for utility warehouse operations based on the profit or losses of non-utility operations. It is also his position that tax-loss carry-back or carry-forward should not be used to offset current utility income in the taxable year, as such method of imputing income taxes holds down necessary utility rate increases because of past operating losses.

#### Findings and Conclusions

1. The existing warehouse storage, handling and accessorial rates of applicants were established pursuant to Decision No. 77586, dated August 11, 1970, in Application No. 51461. Said decision considered operating expenses based on plant and clerical wage costs in effect prior to April 1, 1970. Since that date applicants have incurred increased wage and payroll costs as a result of collective bargaining agreements which are not reflected in operating results introduced in prior proceedings.

2. It will be reasonable for the purposes of the interim phase of this proceeding to use the operating results of a selected group of warehousemen as being representative of the operations of applicants as a group. It will also be reasonable for the purposes of this proceeding to use the same eight warehousemen found in Decision No. 77586 and prior decisions to be representative of applicants as a group.

3. The method of income tax computation followed by the Commission in public utility warehouse rate proceedings is to allow federal and state income taxes as closely as possible to an "as paid" basis. Such method necessarily gives effect to profits or losses from non-utility operations (mostly trucking operations), as well as to utility warehouse operations. Such method is also appropriate to this proceeding, except that the record fails to show the latest available effective income tax rates of applicants. The data used by the staff may no longer be appropriate because of the changes in ownership, corporate structure and activities of several of the test warehousemen since the period for which data are available in this record.

4. The composite 1970 operating results of the eight selected warehousemen, modified to reflect present rates and current operating expenses, are estimated by applicants (Table 1) to result in an operating ratio (after taxes) of 100.3 percent, and by the staff to produce an operating ratio (after taxes) of 99.4 percent. Said ratios indicate that operations are being conducted at the breakeven point, and the warehousemen are in urgent need of additional revenues for continued operations.



5. The composite operating ratio (after taxes) of the eight test warehousemen after adjustment for the eight percent surcharge increase is estimated by applicants to be 95.7 percent (Table 1), and by the staff to be 94.2 percent. Said operating ratios are not more favorable than the operating ratios found reasonable in Decision No. 77586, supra. The increased revenues sought herein do not exceed the increased wage costs incurred by applicants in 1970. The proposed interim increase in rates and charges is justified.

6. The amount of revenue estimated to result from the sought increase is slightly less than the estimated increase in expenses measured herein; therefore, the profitability of applicants' operations will be no more favorable than under previously authorized rate levels. The record does not show that the increased costs sought to be recovered herein are offset in whole or in part by increased productivity. The increase sought herein is the minimum necessary to assure continued and adequate service by applicants, and conforms to the guidelines established pursuant to the Federal Government's economic stabilization program.

7. The publication of the proposed increase as a surcharge on all rates is justified for the interim phase of this proceeding. While the increased costs sought to be recovered in the form of increased revenues stem primarily from increased labor costs, it is within applicants' managerial discretion as to the manner in which such revenue needs are to be recovered, as long as no unreasonable rates will result therefrom. Applicants seek to recover in revenues no more than their increased costs.

The Commission concludes that the sought interim relief should be granted, that applicants should be authorized to establish the increases on five days' notice, and that this proceeding should remain open for the receipt of additional evidence regarding a permanent level of rates.

INTERIM ORDER

IT IS ORDERED that:

1. Applicants are authorized to establish surcharge increases in public utility warehouse storage, handling and accessorial rates and charges proposed as interim in Application No. 52812, in the following tariffs:

California Warehouse Tariff Bureau

Warehouse Tariff No. 48, Cal. P.U.C. No. 219  
Warehouse Tariff No. 49, Cal. P.U.C. No. 220  
Warehouse Tariff No. 61, Cal. P.U.C. No. 237  
Warehouse Tariff No. 62, Cal. P.U.C. No. 238  
Warehouse Tariff No. 64, Cal. P.U.C. No. 240

2. Applicants are authorized to publish the authorized increases in the form of a surcharge reading substantially as follows:

"Except as otherwise shown in connection with individual rules or items, all charges accruing under the rates and charges named in this tariff are subject to a surcharge of 8%. The surcharge will be applied as follows:

Compute the total charges under the applicable rates and charges and increase such total charge as above; resulting fractions of less than one-half cent will be dropped, and fractions of one-half cent or greater will be increased to the next whole cent."

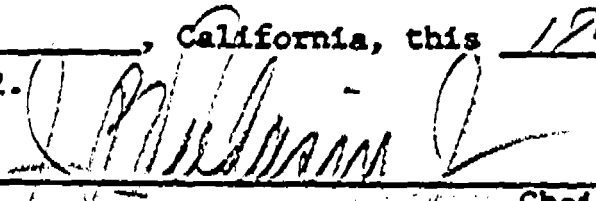
3. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than five days after the date hereof on not less than five days' notice to the Commission and to the public.


4. The authority herein granted is subject to the express condition that applicants 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.

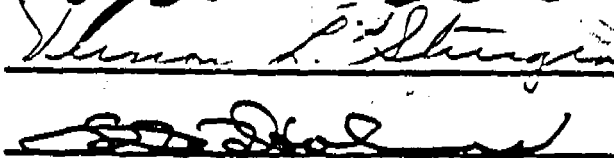
5. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California, this 17<sup>th</sup> day of JANUARY, 1972.

  
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Chairman

  
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Thomas L. Sturgeon

  
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Commissioners

Commissioner William Symens, Jr., being necessarily absent, did not participate in the disposition of this proceeding.