

Decision No. 80037

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ARCTIC COLD STORAGE, INC., B-LO COLD
 STORAGE CO., CALIFORNIA ICE AND COLD
 STORAGE COMPANY, FEDERAL ICE & COLD
 STORAGE COMPANY, ICE AND STORAGE
 COMPANY OF THE INLAND EMPIRE, IMPERIAL
 ICE COMPANY, LOS ANGELES COLD STORAGE
 CO. (dba Los Angeles Ice & Cold
 Storage Co., Pasadena Ice Company and
 Pomona Valley Ice Co.) NATIONAL COLD
 STORAGE COMPANY, ONTARIO ICE & COLD
 STORAGE COMPANY (Clive F. Warner,
 Exie Jein Warner, Clive W. Warner and
 Sally Warner, dba), PACIFIC COLD
 STORAGE INC., RANCHO COLD STORAGE,
 SOUTH COAST PACKING COMPANY, INC.
 (dba South Coast Storage Co., Inc.),
 TERMINAL REFRIGERATING COMPANY,
 TRIANGLE COLD STORAGE CO., UNION ICE
 AND STORAGE COMPANY, and U. S. GROWERS
 COLD STORAGE, INC., for an increase in
 rates.

Application No. 52894
 (Filed September 29, 1971)

Vaughan, Paul & Lyons, by John G. Lyons, Attorney
 at Law, for Arctic Cold Storage, Inc., et al.,
 applicants.

Jack L. Dawson, for applicants.

Moe Gorelick and C. M. Reinke, for Southern
 California Frozen Food Distributors Association,
 protestant.

George L. Hunt and Edward C. Crawford, for the
 Commission staff.

O P I N I O N

This matter was heard and submitted January 19, 1972 before
 Examiner Thompson at Los Angeles.

Applicants are engaged in the business of cold storage
 warehousemen at one or more locations in the area comprising the

Counties of Los Angeles, Orange, Riverside, San Diego and San Bernardino. Each applicant is a warehouseman as defined in Section 239 of the Public Utilities Code and the rates charged by these applicants for freezing, storage, handling and other services incidental thereto are maintained in the following tariffs:

California Warehouse Tariff Bureau No. 2-H

Ontario Ice and Cold Storage Company
Cold Storage Tariff No. 1

South Coast Storage Co., Inc. Cold Storage
Warehouse Tariff No. 1

Terminal Refrigerating Company Cold Storage
Warehouse Tariffs Nos. 4 and 5

U. S. Growers Cold Storage, Inc. Cold
Storage Warehouse Tariffs Nos. 1, 2 and 3.

The rates contained in said tariffs are generally the same because of competition among the applicants. They here seek authority to establish a surcharge on all rates and charges of 5.57 percent. The application is protested by Southern California Frozen Food Distributors Association.

The last general adjustment of applicants' storage and handling rates was made effective pursuant to authority granted by Decision No. 76039, dated August 16, 1969, in Application No. 50769, which decision authorized a ten percent increase in rates.^{1/} Applicants contend that since said date they have experienced substantial increases in expenses of doing business, more particularly in labor costs, taxes, power costs, maintenance and repair, and in the costs of materials and supplies. It is asserted that for almost two years they have been engaged in studies which could lead to a

^{1/} Since said general adjustment there have been a number of changes in individual rates, both increases and reductions. For example, pursuant to STD-6466 applicants increased charges for special labor and clerical labor services.

complete revision of rates, a more simplified tariff, and the combining of commodities of light densities under common rate scales. It is anticipated that completion of the studies will require an additional four months. The contemplated revision in the structure of rates would result in increases in some rates and reductions in others and therefore require authority from the Commission to be made effective. Applicants assert that by reason of the increases in costs an "interim" increase in present rates of 5.57 percent is necessary for applicants to maintain the earnings found by the Commission to be reasonable in Decision No. 76039 pending the contemplated revision in the rate structure.

Applicants presented the results of their public utility warehouse operations for a twelve-month period centering about the year 1970 together with pro forma results under September 1971 expense levels and the proposed increase in rates. A summary of such evidence is tabulated in Appendix A attached hereto. The revenues and expenses shown therein in many instances result from a number of adjustments to recorded figures because some applicants also engage in non-utility operations necessitating separations and allocations of expense, and some applicants rent the structures utilized as their warehouses from affiliates. The allocations and adjustments made are pursuant to procedures adopted or approved by the Commission in prior proceedings involving the rates of applicants and are consistent with those which were considered and approved in Decision No. 76039.^{2/}

^{2/} It should be noted that adjustments were made reducing the amount of expense for donations in accordance with practices approved in prior proceedings. Donations to charities are no longer regarded as reasonable expenses in considering the earnings of public utilities for rate-making purposes. See PT&T v. Pub. Util. Com., 62 Cal. 2d, 634. The total amount of donation expenses involved herein is \$4,500 which if eliminated would have no significant effect upon the over-all results.

The pro forma results were obtained by analysis of revenues and expenses of the eight applicants designated in Appendix A as "Test Applicants". These eight are the same warehousemen utilized in Application No. 50769 in arriving at the operating results shown in Decision No. 76039. Adjustments were made in revenues to reflect increases in hourly rates for special services authorized in 1971 and the adjusted revenues were increased by 5.57 percent so as to obtain the revenues under the proposed increased rate. Adjustments to the expenses of the eight test warehousemen to obtain the pro forma results involved substituting the September 1971 cost levels of wages, payroll costs, power costs, and taxes for the 1970 expenses. These adjustments were made in the cases of each of the eight test warehousemen. The accumulated percentages of the changes were applied to the actual revenues and expenses of the other eight warehousemen in order to determine the pro forma results of all of the applications. The procedure followed was precisely the same as described and approved in Decision No. 76039 except that Arctic Cold Storage was not an applicant in Application No. 50769 not having commenced operations until subsequent thereto.

Appendix A shows that the measurable increases in costs of operations from 1970 to 1971 would have had the effect of increasing expenses (including income taxes) for all warehousemen \$710,870, and the proposed rates together with the previously increased hourly rates for labor services would have increased 1970 revenues by \$743,456. The latter figure includes \$642,215 revenues from the proposed 5.57 percent increase.

The pro forma results do not reasonably measure the operating results that might be anticipated for a future rate year at the proposed increases in rates. From the evidence it is apparent that for a future rate year the revenues are substantially overstated and the expenses are substantially understated. This is so because:

1. During 1970 the warehousemen experienced one of their highest rates of occupancy. 1971 occupancy was around 5 percent lower than 1970.

2. The pro forma revenues were developed by applying the 5.57 percent proposed increase to adjusted revenues. Applicants do not intend to increase all rates and charges by 5.57 percent.
3. The pro forma expenses were developed by applying measurable September 1971 increases in costs, such as wage rate and payroll costs, and did not consider known increases in other expenses where the precise amount of increase in cost could not be accurately measured.
4. The wage rates considered were those prevailing in September 1971. Pursuant to collective bargaining agreements applicants will have to increase the wages of warehouse labor by 40 cents per hour effective June 1, 1972 and will have to increase the wages of operating engineers 44.8 cents per hour effective July 1, 1972.

It is readily apparent that actual results of applicants for a future year at the proposed rates will be substantially less favorable than depicted in the pro forma estimates shown in Appendix A. The pro forma results, however, are substantially the same as the results the Commission has found to be reasonable for rate-making purposes in prior proceedings. Table I, below, is a comparison of the operating ratios of applicants shown in Appendix A with those the Commission has found to be reasonable in the prior three proceedings involving the rates of applicants.

TABLE I

Comparison of Estimated Operating Ratios,
After Income Taxes, Under Authorized Rates
In Three Proceedings with 1970 Actual Results
and Pro Forma Results at Proposed Increased Rates

In Percents

	<u>1970 Pro Forma</u>	<u>1970 Actual</u>	<u>Decision No. 76039^{1/} (8-19-69)</u>	<u>Decision No. 73575 (1-3-68)</u>	<u>Decision No. 65874 (8-13-63)</u>
California	88.0	87.6	88.5	89.2	88.2
Federal	89.6	88.0	87.1	90.9	93.3
Los Angeles	89.9	89.5	88.6	88.1	85.8
National	89.6	89.1	90.3	91.3	86.3
Pacific	83.2	82.5	81.9	87.9	85.2
Terminal	85.9	85.4	86.7	87.7	92.2
Union	97.3	96.4	97.2	153.4	98.8
U. S. Growers	93.1	94.2	93.4	94.9	90.9
Arctic	112.0	111.3	-	-	-
B-Lo	148.2	147.2	84.0	129.8	95.9
Inland	106.2	105.5	109.0	80.9	-
Imperial	71.7	71.4	352.6	409.9	163.6
Ontario	86.7	86.3	77.9*	76.9*	74.1*
Rancho	87.1	86.5	83.2	-	-
Southcoast	83.2	82.8	92.8	99.2	-
Triangle	110.8	110.1	114.8	101.7	110.0
Total	90.8	90.5	89.2 ^{1/} 90.4 [#]	95.2	90.7

^{1/} At July 1, 1968 cost levels except as noted.

[#] At July 1, 1969 labor cost levels.

* No provision for owner-operator's salary.

The pro forma operating results are substantially the same as the results the Commission has found to be reasonable for rate-making purposes in prior proceedings. The amount of revenue to be generated by the proposed rate increases is equivalent to the amount of cost increases already incurred. In the past such showing in and of itself has been sufficient to justify the authorization to increase rates.

In a closing statement the Commission staff asserted that as a result of the filing of this application the Commission's Division of Finance and Accounts initiated studies of the operations and finances of applicants. Much of the work has been done and from the reports of investigations the staff is of the opinion that the earnings of applicants under the proposed increases in rates will not be excessive and it recommends the granting of the authority sought.

Protestant did not offer evidence. In a closing statement it was asserted that protestant is very much aware of the increases in costs incurred by applicants because many of its members warehouse some of their own commodities. The warehouse services of applicants are necessary and it is not protestant's desire to impair the ability to perform such services. It is asserted, however, that the federal economic policy manifested in the price freeze and the Economic Stabilization Act of 1971 requires all business to tighten its belt. Increases in applicants' warehouse rates will result in either protestant's members having to absorb that additional cost as well as other increases in their costs or in the consumer paying a higher price for foodstuffs. The latter, it is asserted, will contribute to inflation.

The Commission is required to consider the application for increases in rates in accordance with the rule of the Federal Price Commission and the aims of the Economic Stabilization Act of 1971. On March 20, 1972 the Federal Price Commission revised its regulations regarding guidelines and certification for increases in rates of

public utilities. The application herein will be considered according to said guidelines and regulations.

We find that:

1. Applicants, and each of them, are public utilities engaged in cold storage warehousing at one or more locations in southern California and compete among each other and with private warehousing for the cold storage business in that area.

2. Applicants maintain the same level of rates and charges for their services and, except as to charges for special labor and clerical labor services, in general their present rates and charges were authorized by the Commission in its Decision No. 76039, dated August 16, 1969, in Application No. 50769; and the charges for special labor and clerical labor services were authorized by the Commission pursuant to its Order No. STD-6466, dated August 11, 1970.

3. In Decision No. 76039 the Commission found that the rates and charges authorized therein would provide operating results as set forth in Table I of this opinion, which results for applicants collectively at July 1, 1969 expense levels was an operating ratio of 90.4 percent.

4. For twelve-month periods centering about the calendar year 1970 the results of applicants' operations are as shown in Appendix A, which results for applicants collectively was an operating ratio of 90.5 percent.

5. For the same twelve-month periods the results of applicants' operations adjusted to reflect September 1971 expense levels and adjusted to reflect revenues at the proposed rates are also shown in Appendix A, and in Table I, which results for applicants collectively is an operating ratio of 90.8 percent reflecting earnings and a return less favorable than authorized by Decision No. 76039.

6. The revenues to be derived from the proposed increase in rates will do no more than offset increases in expenses already incurred.

7. The increases in rates proposed herein have been shown to be justified.

We conclude that the application to increase rates should be granted and that a certificate should be issued to the Federal Price Commission as provided in the Economic Stabilization Act.

O R D E R

IT IS ORDERED that:

1. Applicants are authorized to establish the increases in rates proposed in Application No. 52894. 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 on not less than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public.

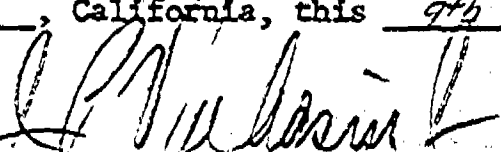
2. The authority herein granted is subject to the express condition that applicants will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that the opinion and order herein constitute a finding of fact of the reasonableness 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.

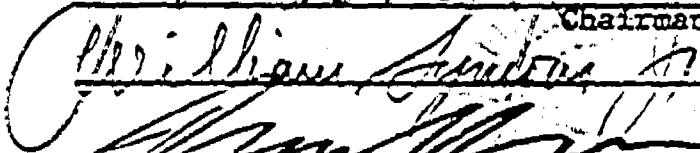
3. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

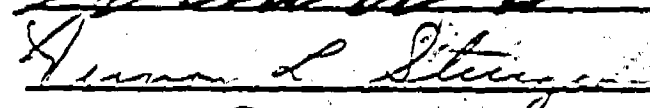
4. The Commission does certify to the Federal Price Commission that the projected return of applicants, as customarily measured, under the proposed increase in rates will not exceed the projected return granted to applicants in the last decision of the Commission concerning the rates of applicants; and that Appendix B to the order herein accurately reflects data regarding the increases authorized herein as required by Title 6, Chapter III, Part 300, Sect. 300.16(e), in accordance with Sect. 300.16(g) thereof.


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

Dated at San Francisco, California, this 9th
day of MAY, 1972.



Chairman






Commissioners

APPENDIX A

Results of Cold Storage Warehousing Operations
for a 12-month Period (1970) and Pro Forma
Results at September 1971 Expense Levels and
at Proposed Increases in Rates

Warehousemen (Test)	<u>After Income Taxes</u>					
	<u>Actual</u>			<u>Pro Forma</u>		
	<u>Revenues</u>	<u>Expenses Including Income Taxes</u>	<u>Operating Ratio Percent</u>	<u>Revenues</u>	<u>Expenses Including Income Taxes</u>	<u>Operating Ratio Percent</u>
California	\$ 706,460	\$ 618,675	87.6	\$ 750,903	\$ 660,513	88.0
Federal	752,284	622,155	83.0	798,518	715,740	89.6
Los Angeles	1,968,612	1,762,888	89.5	2,084,083	1,873,875	89.9
National	762,143	679,341	89.1	805,742	721,692	89.6
Pacific	1,093,756	902,840	82.5	1,159,243	964,662	83.2
Terminal	2,232,996	1,907,368	85.4	2,385,224	2,048,704	85.9
Union	923,653	890,374	96.4	990,897	963,900	97.3
U. S. Growers	<u>2,056,298</u>	<u>1,937,855</u>	<u>94.2</u>	<u>2,198,337</u>	<u>2,047,109</u>	<u>93.1</u>
Sub Total (Test)	\$10,496,202	\$ 9,361,496	89.2	\$11,173,007	\$ 9,996,195	89.5
(Non-Test)						
Arctic	\$ 220,007	\$ 244,795	111.3	\$ 234,193	\$ 262,271	112.0
B-Io	148,667	218,861	147.2	158,253	234,485	148.2
Inland	67,483	71,182	105.5	71,834	76,259	106.2
Imperial	3,013	2,150	71.4	3,207	2,298	71.7
Ontario	71,619	61,829	86.3	76,237	66,109	86.7
Rancho	147,045	127,243	86.5	156,526	136,267	87.1
Southcoast	236,805	196,075	82.8	252,074	209,694	83.2
Triangle	<u>139,056</u>	<u>153,044</u>	<u>110.1</u>	<u>148,022</u>	<u>163,967</u>	<u>110.8</u>
Sub Total (Non-Test)	\$ 1,033,695	\$ 1,075,179	104.0	\$ 1,100,346	\$ 1,151,350	104.6
Total all Warehouses	\$11,529,897	\$10,436,675	90.5	\$12,273,353	\$11,147,545	90.8

1970 Rate Base Test Warehouses: \$11,812,490

1970 Rate of Return 9.6%

Pro Forma Rate Base Test Warehouses: \$11,918,605

Pro Forma Rate of Return 9.9%

APPENDIX B

DATA REGARDING INCREASES IN RATES
OF PUBLIC UTILITY COLD STORAGE
WAREHOUSEMEN IN APPLICATION NO. 52894

1970 TEST YEAR

- (1) The increase of 5.57 percent is to be applied as a surcharge to the charges for any and all cold storage warehouse services performed by applicants.
- (2) Revenue increases for the sixteen warehousemen as a group is \$642,215 per annum.
- (3) Based upon cost and expense levels of September 1971, net revenue as a percent of gross revenue is expected to be 9.2 percent under the authorized increase as compared to 9.5 percent for 1970 actual operations.
- (4) The increase will not significantly affect the rate of return on capital of the sixteen applicants as a group. For the eight largest and most profitable of the sixteen warehousemen the increase applied to the test year would have increased the rate of return on capital from 9.6 percent to 9.9 percent, the remaining eight warehousemen as a group would have continued to conduct operations at a loss.
- (5) Sufficient evidence was taken at public hearing in this application to determine whether or not the criteria set forth in paragraph (d), (1) through (4) of Title 6, Chapter III, Part 300, Sect. 300.16 of the Code of Federal Regulations are or are not met by the rate increase.
- (6) The rate increase is cost-based and does not reflect future inflationary expectations; the increase is the minimum required to assure continued, adequate and safe service; the increase will achieve the minimum rate of return needed to attract capital at reasonable costs and not impair the credit of these public utility warehousemen.
- (7) The expense levels utilized in this proceeding are as of September 1971, prior to the November 8, 1971 announcement of a 5.5 percent annual wage increase guideline maximum under the Economic Stabilization Program. The total dollars of increased expenses at September 1971 cost levels amount to \$710,870, of which 87 percent is attributable to labor costs which include wages, vacations, holidays, pensions and other fringe benefits resulting from collective bargaining agreements negotiated and made effective prior to August 1, 1971, together with payroll taxes, compensation insurance and other items of expense related to payroll.