

ORIGINAL

Decision No. 80770

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BAY CITIES WAREHOUSE COMPANY, INC.;
 BECKMAN EXPRESS & WAREHOUSE CO.;
 BEKINS WAREHOUSING CORP.; BENTLEY
 MOVING & STORAGE CO.; CAPITOL
 WAREHOUSES, INC.; CENTRAL WAREHOUSE
 & DRAYAGE CO., INC.; CHICHESTER
 TRANSPORTATION COMPANY, INC.; COAST
 DRAYAGE; CONSOLIDATED DE PUE
 CORPORATION: 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
 WAREHOUSE 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.;
 PASEA WAREHOUSES, INC.; Distribution
 Centers, Inc., dba RICHMOND
 DISTRIBUTION CENTER; RICHMOND TRANSFER
 AND STORAGE COMPANY; ROMEO DRAYAGE &
 WAREHOUSING 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.

(Amended Title)

Application No. 52812
 (Filed August 17, 1971;
 Amended June 12, 1972)

(For Appearances see Decision No. 79619)

Additional Appearances

H. W. Hughes and R. W. Smith and Arlo D. Poe, Attorneys at Law, for California Trucking Association; and Wayne R. Tinker, for Diamond Shamrock Chemical Co.; interested parties.

A. L. Gieleghem and Clyde Neary, for the Commission staff.

SECOND 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 cancellation of California Warehouse Tariff Bureau Tariff 48, which contains the general merchandise rates and charges of applicants, and the publication in place of said tariff of a new cost-oriented tariff as set forth in the amendment to the application filed June 12, 1972.

Applicants were granted an interim surcharge increase of 8.0 percent in their warehouse rates and charges, pursuant to Decision No. 79619, dated January 18, 1972 in this proceeding. Applicants now seek a further interim increase of 14.9 percent in lieu of the 8.0 percent increase previously granted.

Public hearing on applicants' request for further interim rate relief was held before Examiner Mallory at San Francisco on September 7 and 8, 1972, and said request was submitted. Evidence was presented by applicants' tariff agent and by representatives of eight warehousemen. The Commission staff participated through cross-examination of applicants' witnesses. No one appeared in opposition to the relief sought.

The interim relief granted in Decision No. 79619 reflected wage rates which became effective on or before June 1, 1971, pursuant to collective bargaining agreements. In this phase of the proceeding applicants seek to recover through increased rates increases in wages and payroll taxes which were made effective in 1972. Said wage increases are set forth in contracts which were negotiated and became effective prior to the imposition of wage and price controls.

In prior proceedings and in the initial phase of this proceeding, applicants have relied upon a showing of the operating results of eight test warehousemen deemed to be representative of the overall warehouse operations of applicants. In this phase of the proceeding, applicants' tariff agent used data for the same group of eight warehousemen as a means of showing operating results under present and proposed rates. Included in this group is San Francisco Warehouse Company. The tariff agent adjusted upward the 1971 warehouse operating revenues for said warehouseman (from actual revenues of \$324,504 to adjusted revenues of \$413,013) because of "poor occupancy".

The president of San Francisco Warehouse Company testified in support of the application. Said witness stated that he considered the operations of San Francisco Warehouse Company to be exceedingly poor in 1971 because the warehouse company continued to experience an extremely low level of occupancy. The witness stated that San Francisco Warehouse Company confines its operations to San Francisco. Two reasons were advanced by the witness for the low occupancy level: (1) Major accounts had moved to public warehouses located in the East Bay in order to be closer to their wholesale and chain grocery customers whose warehouses are located in the East Bay, and (2) the San Francisco Warehouse Company has elected to seek a fairly large volume of its business in imported goods arriving through the Port of San Francisco which has lost a large portion of its business to other ports in the Bay Area.

As a consequence of current low occupancy and the active solicitation of new business, the various categories of general and administrative expense of San Francisco Warehouse Company are high in proportion to operating revenues. The record also shows that San Francisco Warehouse Company lost approximately half of its public utility warehouse floor space in a fire occurring about five years ago, which has not been replaced. The president of San Francisco Warehouse Company testified that the management of that company has no specific plans to change its present method of doing business nor the type of business it seeks.

The record shows that San Francisco Warehouse Company has had continuing operating losses in recent periods. It appears from the testimony of the tariff agent and the president of San Francisco Warehouse Company that the current operations of the company are not typical of the warehouse operations of other applicants and that it is not contemplated that operating practices of the company, under which substantial losses have occurred, will be changed. Therefore, we find that the operations of San Francisco Warehouse Company should not serve as a basis for determining the revenue requirements of other applicants in this phase of Application No. 52812.

In the following estimate of operating revenue and expense data presented by applicants' tariff agent, information relating to San Francisco Warehouse Company has been deleted.

Applicants' tariff agent presented an estimate of operating revenues and expenses for the selected warehousemen under present and proposed rates. The following table reflects the composite actual results of warehousing operations for the year ended December 31, 1971, except that income taxes are computed as if each warehouseman conducted no non-utility operations and had no deductions from net income for tax purposes. The 1971 warehousing operating results were adjusted to give effect to increases in wages and payroll expenses, 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	\$5,691,952
Expenses	5,452,933
Profit or (Loss) before taxes	239,019
Taxes	128,660
Expenses after taxes	5,581,593
Profit or (Loss) after taxes	110,359
Operating Ratio after taxes	98.1%
Revenue Adjusted to Present Rates and Expenses Adjusted to Present Cost	
Revised Revenue	\$6,147,307
Revised Expenses	5,936,003
Profit or (Loss) before taxes	211,304
Taxes	121,571
Expenses after taxes	6,057,574
Profit or (Loss) after taxes	89,733
Operating Ratio after taxes	98.5%
Revenue Adjusted to Proposed Rates and Expenses Adjusted to Present Cost	
Proposed Revenue	\$6,540,735
Revised Expenses	5,936,003
Profit or (Loss) before taxes	604,732
Taxes	272,760
Expenses after taxes	6,208,763
Profit or (Loss) after taxes	331,972
Operating Ratio after taxes	94.9%

The seven warehousemen whose operating results are summarized in the above table are: Central Warehouse and Drayage Co., Encinal Terminals, Gibraltar Warehouses, Haslett Company, Thompson Bros., Inc., Thompson-DePue Company, Inc., and Walkup's Merchants Express. Certain of the operating expenses of each of the foregoing warehousemen have

been allocated between public utility warehouse operations and other operations. Representatives of each of the seven test warehousemen confirmed the operating data set forth in the exhibits presented by the tariff agent and explained the methods of allocating expenses used by each. Cross-examination developed that some of the allocation procedures resulted in greater charges to utility warehouse operations than appear to be reasonable. However, adjustment of operating expenses in the above table to eliminate the excessive allocations would not materially change the profitability of the warehousemen's operations as a group. Cross-examination also developed that information set forth in the foregoing table was developed by completion of questionnaire forms by the warehousemen which were then sent to their tariff agent, and that the agent made no independent audit or analysis of the data supplied to him by the warehousemen. The witnesses appearing for individual warehousemen were, in some instances, unable to support or explain the allocation procedures used in the development of the data supplied by them to their tariff agent.

The tariff agent contended that the composite operating ratio of the test warehousemen, as set forth in Table 1, is not more favorable for operations under proposed rates than was found reasonable in the initial phase of this proceeding and in prior proceedings involving these applicants; and that it is essential to their financial well-being that revenues of the warehousemen be increased to offset the increased wages and payroll expenses incurred by said warehousemen in 1972.

A written protest was filed by Miles Laboratories. No representative of Miles Laboratories appeared at the hearing.

Findings and Conclusions

1. The existing warehouse storage, handling and accessorial rates of applicants were established pursuant to Decision No. 79619 dated January 6, 1972 in this proceeding. Said decision considered operating expenses based on plant and clerical wage costs in effect prior to December 31, 1971. Since that date as a result of collective bargaining agreements, applicants have incurred increased wage and payroll costs 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 seven of the eight warehousemen found in Decision No. 79619 and prior decisions to be representative of applicants as a group. The operations of San Francisco Warehouse Company are no longer representative of the applicants as a group, and, therefore, the operating data for said warehouseman should not be included in the composite operating data of selected warehousemen.

3. There is nothing in Rule 23.1 of the Commission's Rules of Practice and Procedure or Price Commission Rules which requires that the Commission depart from the practice used in prior warehouse increase proceedings of using the composite operating revenues and expenses of a selected number of representative (test) warehousemen as a basis for determining the revenue needs of the applicant warehousemen as a group.

4. The composite 1971 operating results of the seven 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 92.5 percent. Said ratios indicate that operations are being conducted at slightly above 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 seven test warehousemen after adjustment for the sought additional 6.9 percent surcharge increase is estimated by applicants to be 94.9 percent (Table 1). Said operating ratio is not more favorable than the operating ratio found reasonable in Decision No. 79619. The increased revenues sought herein do not exceed the increased wage costs incurred by applicants since their rates were last adjusted.

6. The increased rates and charges sought in this phase of Application No. 52812 are justified.

7. The authorized rates should be established as interim rates pending consideration in the final phase of this proceeding of the new cost-oriented tariff proposed by applicants to replace their present general merchandise tariff. The publication of the proposed increase as a surcharge on all rates is justified for this interim phase of the proceeding.

8. In compliance with Rule 23.1 of this Commission's Rules of Practice and Procedure promulgated pursuant to the Economic Stabilization Act of 1970, we find and determine:

- a. The rate increase is cost justified. The increased revenue sought in this phase of the proceeding is to offset increases in wages and payroll costs occurring since rates were last adjusted.
- b. The rate increase does not reflect future inflationary trends. The increased wage and payroll costs sought to be recovered in this phase of the proceeding are those currently being experienced by the applicant warehousemen.
- c. The rate increase is the minimum required to assure continued, adequate and safe service. The operating ratio resulting from the interim increase is at the lower end of the zone of reasonableness.
- d. The rate increase does not reflect labor costs in excess of those allowed by Price Commission policies. The collective bargaining agreements covering the warehouse and clerical employees of applicant warehousemen are three-year contracts initially placed in effect prior to Price Control regulations and are scheduled to expire in 1973.
- e. The rate increase will achieve the minimum return needed to attract capital at reasonable costs and not impair the credit of the applicant warehousemen.

- f. The rate increase takes into account expected and obtainable productivity gains. The record shows that, short of constructing all new facilities, there are no productivity gains available to the applicant warehousemen which they have not implemented in their current operations.
- g. No public utility warehouseman operating in the San Francisco Bay Area appeared at the hearing to present evidence expressing a willingness and capacity to provide the current services of applicants at existing rates.

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.

Applicants are placed on notice that 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 will be the appropriate method of computing federal and state income taxes in any further hearing in this proceeding or any future hearing involving the same applicants and applicants should present their economic data using such method.

Applicants are also placed on notice that in further phases of this proceeding witnesses for individual applicants will be expected to fully explain and justify the allocation procedures used in the financial data applicable to their public utility warehouse operations, and that applicants' tariff agent will be expected to ascertain that such allocations are uniform, accurate, and consistent with procedures heretofore determined to be reasonable and appropriate.

SECOND 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, as amended on June 12, 1972, 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 14.9%. 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 as a result of the order herein shall contain the following provisions:

In the event any increases resulting from the application of this interim surcharge exceed the increases subsequently approved or prescribed by the Public Utilities Commission, the warehousemen will refund the differences between the increases resulting from the application of this interim surcharge and any increases which may be subsequently approved or prescribed by the Commission.

In the event an increase resulting from the application of this interim surcharge is disapproved by the Commission and no increase is authorized, warehousemen will refund the full amount of the increase collected.

4. 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.

5. 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.

6. 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 15th day of DECEMBER, 1972.

Vernon L. Spurgeon
President
William J. Brown

Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.