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ORIGINAL

Decision No. 81316

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. and Pasadena Ice Company), 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. 53509 (Filed August 4, 1972)

Vaughan, Paul & Lyons, by John G. Lyons, Attorney at Law, for Arctic Cold Storage, Inc., et al., applicants.
Jack L. Dawson, for applicants.
B. A. Peeters, Attorney at Law, George L. Hunt and Edward C. Crawford, for the Commission staff.

O P I N I O N

Applicants are 16 public utility warehousemen providing freezing, cold storage, handling, and incidental services in connection with the storage of commodities requiring refrigeration at various locations in southern California. They contend that the tariff rates they maintain do not yield sufficient income to allow them to conduct warehouse operations at a reasonable profit. Applicants request a cost offset increase of 5.5

percent in their tariff rates and charges which they allege is necessary to enable them to continue in business and to render adequate and efficient services to the public.1/

Public hearings were held before Examiner Norman Haley at Los Angeles on October 30 and 31, 1972 and the matter was submitted.

The last general adjustment of applicants' tariff rates was made effective pursuant to authority granted by Decision No. 80037 dated May 9, 1972 in Application No. 52894. That decision authorized an increase of 5.57 percent in charges for any and all cold storage warehouse services performed by applicants, for the purpose of offsetting increased costs. In this proceeding applicants seek to recover through increased rates further increases in operating costs, principally plant wages which have increased since 1971.

All applicants are corporations except Ontario Ice & Cold Storage Company. Articles of incorporation previously have been filed. The 16 warehouse companies operate approximately 23,500,000 cubic feet of warehouse space, as described in their annual reports. Exhibits A through D, appended to the application are financial statements pertaining to each of the applicants for 12-month periods centering around the year 1971. They include balance sheets, income statements, and profit and loss statements (including designated allocations and adjustments for purposes of this proceeding).

1/ The public utility warehouse rates involved are contained in the tariffs identified in Paragraph VI, Page 4 of the application. The rates in the tariffs are generally the same because of competition among the applicants. Rate and rule differences that do exist are relatively minor.

Item A introduced at the hearing was a notice mailed to approximately 3500 storers explaining the scope of the requested increase, the general bases therefore, and the time and place of hearing. Items B and C are forms of two contracts which were negotiated by applicants and became effective June 1 and July 1, 1971, applicable to teamsters and engineers, respectively. The contracts cover wages, fringe benefits, work rules, etc., and provide for annual increases in payments by the applicants for labor services for three-year periods expiring June 1 and July 1, 1974, respectively.

Evidence was presented by the executive manager of the Pacific States Cold Storage Warehousemen's Association (association manager), by officers of four of the applicant companies, by the executive director of the Pacific Egg & Poultry Association, and by a financial examiner of the Commission staff. Of the 3500 storers notified there were four written protests. The written protests related in part to some issues raised at the hearing, and in part to matters not raised therein. The written protests contain data of an evidentiary nature which cannot be considered by the Commission as the data were not introduced by a competent witness and cross-examination thereon was not accorded applicants and other parties.

Applicants' Evidence

The association manager testified concerning the reasons the application was filed, the bases for the financial statements attached thereto as Exhibits A through D, and the results disclosed therein. He also introduced and explained four additional exhibits.

Exhibit 1 introduced by the association manager requests amendment of the application for the purpose of cancelling Item 50 and Rule 125 of the California Warehouse Tariff Bureau Cold Storage Warehouse Tariff No. 2-H. The witness explained that these tariff provisions constitute "dead rates" in that the circumstances for which they were established no longer prevail, and that the provisions have not been used for a number of years. Cancellation of the two items would not affect revenue.

Exhibit 2 is a warehouse wage rate study. It shows that the basic wages for an average warehouse employee engaged in handling products into and out of the warehouses of the 16 applicants rose from $4.30 to $4.70 per hour from June 1, 1971 to June 1, 1972. Exhibit 2 also shows that total average cost for a warehouse employee including insurance, pension, and other employer costs, has risen from $5.07 per hour in 1971 to $5.83 per hour in 1972, an increase of 15.1 percent. The cost-per-hour figures in Exhibit 2 do not include holidays, vacations, sick leave, paid time not worked, supervision, or overhead.

In Exhibit 3 the witness compared the average weekly nonproductive labor costs of the 16 applicants, as of June 1, 1972, with recently published national average weekly nonproductive labor costs. The basic costs in Exhibit 3 are the hourly costs from Exhibit 2 converted to a weekly basis. The average weekly pay in 1972 for hours worked by warehouse employees of the 16 applicants was $155.35. This is 66.31 percent of the total cost per employee of $234.26. The difference of $78.91 is applicants' average weekly nonproductive warehouse labor cost (holidays, vacations, sick leave, etc., plus employer costs). This compares with $45.83 average for the warehouse industry nationally, and with $48.92 as the average for all industry nationally. Exhibit 3 shows that applicants' nonproductive labor cost of $78.91 is 50.8 percent of the basic weekly pay of $155.35 for hours worked. The basic rate of $4.70 per hour in Exhibit 2, effective June 1, 1972, multiplied by 150.8 percent produces a total warehouse labor cost of $7.09 per hour, not including supervision or overhead.

Exhibit 4 is an engineer wage study. It shows the average wage rate of engineers employed at warehouse plants in connection with the production of refrigeration was $5.74 per hour in 1971. Effective July 1, 1972 the wage rate was increased 14.4 percent to $6.56, an increase of 82.5 cents, not including holidays, vacations, sick leave, paid time not worked, supervision, or overhead.

The association manager explained that certain other categories of costs not covered by Exhibits 2, 3, and 4 also have been measured. They include general and administrative wages, taxes, and power. Certain unmeasureable costs also have increased. These were categorized principally as maintenance and repairs, and materials and supplies. The witness stated that Social Security costs also are expected to rise a minimum of six cents per hour in 1973.

The original cost of the facilities owned by applicants, as well as the depreciation reserves applicable thereto, are shown in the balance sheets contained in Exhibit A to the application. Data from recent income statements are contained in Exhibit B. The witness stated that the balance sheets and income statements were compiled by him from data furnished directly by applicants, and from annual reports filed with the Commission. The witness explained the profit and loss statements in Exhibits C and D to the application were prepared to show (1) actual results of operations for the test year 1971; (2) estimates projected from the test year reflecting present revenues and revised expenses; and (3) estimates reflecting proposed revenues and revised expenses. Results are shown separately for each warehouse applicant, for eight test warehouses as a group representing 87 percent of total revenue, for the remaining eight warehouses representing 13 percent of the revenue, and for the 16 applicants combined.[2]

To arrive at the actual operating results for 1971 a number of adjustments were made to recorded book figures. The witness stated that the utility revenues and accompanying utility expenses (including income taxes for individual warehouses) were isolated to obtain a true picture of the actual storage operations, so that proposed rates would reflect the needs of the warehouse business alone.[3] Allocations and adjustments were made to the expenses of five of the test warehouses for the purpose of substituting landlord costs (depreciation, property taxes, maintenance and repairs, insurance, etc.) for affiliated landlord rents. Certain refrigeration expense of another operator was transferred to non-utility functions. Donations were eliminated. The allocations and adjustments made are generally pursuant to procedures adopted or approved by the Commission in prior proceedings involving the rates of these applicants, and are generally consistent with those which were considered and approved in Decision No. 80037. In Table 1 below are summarized the

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2/ The 16 applicants in this proceeding are the same warehousemen that were authorized an increase in rates of 5.57 percent by Decision No. 80037 in Application No. 52894. The eight test warehousemen herein are also the same utilized in connection with the sought increase in that proceeding. The witness stated that the test warehousemen were selected several years ago in conjunction with the staff.

3/ The witness stated that a minor amount of non-utility expenses could not be separated from the expenses of some of the operators and were included along with the applicable non-utility revenues. He stated that non-utility businesses conducted by applicants are generally more profitable than the utility business. They include manufacture and sale of water ice and dry ice, processing of commodities, lending money on commodities, trucking, and space leasing.

operating results for 12 months for each of the applicants, for the two groups of eight, and for the 16 warehouses as a single group. The 12-month period is the calendar year 1971, except for three of the non-test applicants, as indicated.

Table 1 shows that the eight test warehouses experienced an average operating ratio of 92 and an average rate of return of 6.2 percent after income taxes. The 16 operators combined had an average operating ratio of 92.9, accompanied by an average rate of return of 5.8 percent. The rates of return were calculated on net rate base (historical cost less depreciation).

TABLE I

Results of Operation for 12-Month Period
Ended December 31, 1971 (Except as Noted)

After Income Taxes

Eight Test Warehousemen	Revenues	Expenses (Including Income Taxes)	Profit or Loss	Operating Ratio (Percent)	Rate of Return (Percent)*
California	$ 838,041	$ 735,695	$102,346	87.8	13.2
Federal	724,239	661,685	62,554	91.4	12.6
Los Angeles	2,048,738	1,854,065	194,673	90.5	5.8
National	768,046	692,063	75,983	90.1	9.9
Pacific	1,103,226	944,382	158,844	85.6	13.8
Terminal	2,121,481	1,870,559	250,922	88.2	12.9
Union	837,393	882,581	(45,188)	105.4	-
U.S. Growers	1,281,894	1,300,973	(19,079)	101.5	-
Subtotal	$9,723,058	$8,942,003	$781,055	92	6.2

Other Eight Warehousemen	Revenues	Expenses (Including Income Taxes)	Profit or Loss	Operating Ratio (Percent)	Rate of Return (Percent)*
Arctic (1)	$ 694,216	$ 671,394	$ 22,822	96.7	9.9
B-Lo	92,079	131,971	(39,892)	143.0	-
Inland	68,293	88,706	(20,413)	129.9	-
Imperial	320	1,071	(751)	335.0	-
Ontario	67,852	67,905	(53)	100.1	-
Rancho (2)	144,919	127,932	16,987	88.3	6.4
South Coast (1)	201,238	175,606#	25,632	87.3	8.4
Triangle	168,744	164,704	4,070	97.6	7.6
Subtotal	$1,437,691	$1,429,289	$ 8,402	99.4	0.8
Total All Ware-Houses	$11,160,749	$10,371,292	$789,457	92.9	5.8

(1) For 12-month period ended March 31, 1972.
(2) For 12-month period ended February 29, 1972.
\# No provision for owner-operator's salary.
* Negative rates of return not indicated.

(Red Figure)

To reflect current operations (present revenues and revised expenses) the association manager made upward revisions in the actual 1971 revenues of each of the 16 warehouses to reflect present rates, which include the 5.57 percent increase authorized by Decision No. 80037. The adjusted 1971 expense figures for the eight test warehouses were revised upward to reflect the measured cost increases which applicants experienced in 1972. Expenses for the eight other (non-test) warehouses were increased in the same proportion as the revised expenses for the eight test warehouses as a group. To reflect operations of the 16 applicants under proposed rates the witness further increased revenues by the 5.5 percent increase sought herein and again applied the revised expenses in the manner indicated above. These procedures also are generally consistent with those approved in prior rate proceedings involving these applicants. The estimated results of operation, after income taxes, under present rates and under proposed rates are shown in Table 2, below.

Table 2

**Estimated Results of Operation
Under Present and Proposed Rates
(At July 1, 1972 Cost Levels)**

(After Income Taxes)

	Under Present Rates		Under Proposed Rates	
Eight Test Warehousemen	Operating Ratio	Rate of Return*	Operating Ratio	Rate of Return*
California	87.7%	13.9%	85.9%	16.8%
Federal	92.8	10.9	91.0	14.2
Los Angeles	91.5	5.5	89.4	7.1
National	90.8	9.6	88.8	12.4
Pacific	85.4	14.7	83.6	17.3
Terminal	89.3	12.1	87.4	15.1
Union	103.3	-	98.5	0.6
U. S. Growers	100.4	-	97.2	2.6
Subtotal	92.2	6.3	89.9	8.66
Other Eight Warehousemen				
Arctic	97.2	8.6	94.8	16.5
B-Low	145.0	-	138.0	-
Inland	132.0	-	125.0	-
Imperial	337.0	-	319.0	-
Ontario	101.4	-	97.1	9.0
Rancho	89.1	6.2	86.6	8.1
South Coast	93.1	4.7	89.7	7.5
Triangle	98.3	5.6	94.6	18.4
Subtotal	100.9	-	97.6	3.5
Total	93.4	5.7	90.9	8.2

*Negative rates of return not indicated.

Table 2 shows that under current operations (present rates and revised expenses), average operating ratios and rates of return for the two groups of eight operators and for the 16 operators combined are approximately the same as those experienced under actual 1971 operations (Table 1). Table 2 also shows the extent to which the proposed 5.5 percent increase in rates would improve the operating ratios and rates of return for each of the warehouses and the groups.[4/] The association manager pointed out that for some test operators the estimated rates of return under proposed rates appear higher than normal in relation to the estimated operating ratios. He said that this is due to some of the rate bases being largely depreciated, and in one case to the rate base being incomplete in that it does not include properties and buildings which are rented from the landlord on an arm's length basis.

The witness anticipates that operations under the present and proposed rates will not be as profitable as indicated in Table 2 because the unmeasured expenses were not included (maintenance and repairs, materials and supplies, etc.). He stated that a recent study of these applicants had shown that over a period of about six years such costs have been going up at approximately the same percentage as increases in labor. No provision was made for the increases in unmeasured expenses because in the opinion of the witness applicants would not be able to prove that they are cost justified under Rule 23.1 of the Commission's Rules of Procedure.

4/ Page 3 of Exhibit C of the application discloses that for the 16 operators as a group revenue under proposed rates would be increased approximately $648,000. After income taxes the proposed rates would increase profit for the 16 operators by approximately $352,000.

The association manager stated that the purpose of the sought rate increase is to return the warehousemen to approximately the same operating ratios and rates of return as were sought and authorized in the prior proceeding (Decision No. 80037 in Application No. 52894). In that proceeding the 16 warehousemen sought rates estimated to produce a combined operating ratio of 90.8 after income taxes, based upon a 1970 test year. For the eight test warehousemen an operating ratio of 89.5 was projected at that time, accompanied by a rate of return of 9.9 percent. The witness pointed out that applicants generally did not achieve the anticipated results under actual operations in 1971.[5/] He explained that a principal contributing factor was that in Application No. 52894 the estimates had been for the test year 1970, during which the operators as a whole experienced their highest occupancy of record. He stated that the actual 1971 figures reflect operating results under more normal occupancy, as well as the increases in costs which were experienced.

Set forth in Table 3, below, is a comparison of estimated operating ratios of each applicant, after income taxes, under authorized rates in three prior proceedings, with 1971 actual results and estimated results at the proposed increased rates.

5/ At Page 5 of Decision No. 80037 the Commission commented on the projected results for a future year based upon applicants' test year 1970 as follows: "It is readily apparent that actual results of operations 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 reasonable for rate-making purposes in prior proceedings. ..."

Table 3

Comparison of Estimated Operating Ratios, After Income Taxes, Under Authorized Rates In Three Proceedings with 1971 Actual Results and Estimated Results at Proposed Increased Rates

In Percents

	A. 53509 Proposed Rates	1971 Actual	Decision No. 80037 (5-9-72)	Decision No. 76039 (8-19-69) 1/	Decision No. 73575 (1-3-68)
California	85.9	87.8	88.0	88.5	89.2
Federal	91.0	91.4	89.6	87.1	90.9
Los Angeles	89.4	90.5	89.9	88.6	88.1
National	88.8	90.1	89.6	90.8	91.3
Pacific	83.6	85.6	83.2	81.9	87.9
Terminal	87.4	88.2	85.9	86.7	87.7
Union	98.5	105.4	97.3	97.2	153.4
U.S. Growers	97.2	101.5	93.1	93.4	94.9
Arctic	94.8	96.7	112.0	-	-
B-Lo	138.0	143.0	148.2	84.0	129.8
Inland	125.0	129.9	106.2	109.0	80.9
Imperial	319.0	335.0	71.7	352.6	409.9
Ontario	97.1	100.1	86.7	77.9*	76.9*
Rancho	86.6	88.3	87.1	83.2	-
South Coast	89.7	87.3*	83.2	92.8	99.2
Triangle	94.6	97.6	110.8	114.8	101.7
Total	90.9	92.9	90.8	89.2 1/ 90.4#	95.2

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

At July 1, 1969 labor cost levels.

* No provision for owner-operator's salary.

Table 3 shows that of the eight test warehouses only one (California) actually achieved in 1971 the operating ratio anticipated in connection with rates authorized in Decision No. 80037. Under the proposed rates eight of the 16 warehouses would experience operating results generally equivalent to those anticipated in the prior proceeding. Three operators would reflect significantly better results, and five would have significantly less favorable results. For the 16 operators as a group the results under proposed rates would be virtually identical with those estimated at rates authorized in Decision No. 80037.

The association manager stated that applicants were not attempting to measure the well-being of any particular company with its particular blend of storage and rates of turnover, which vary greatly from time to time and from year to year. He said that applicants are endeavoring to show the average revenue needed on which to predicate rates which will provide a reasonable profit, after taxes, for the broad mixture of commodities handled at the various rates of turnover in storage, and for the varying public utility warehouse investments of the group as a whole.

The association manager explained that the warehouses experience annual and seasonal fluctuations in business due to food crop variations, changes in marketing conditions, and other circumstances. This can cause wide variations in operating results if the warehouses are small. He cited Imperial with only $320 revenue in 1971. That company stores dates, and variations in the amount in storage from year to year produces substantial percentage changes in revenues and operating ratios. To compensate for certain of the ups and downs in public utility business some of the operators engage in non-utility business.

The association manager testified concerning the competitive nature of applicants' business. He stated that none of the warehouse operators involved has the monopolistic characteristics of a fixed utility.[6] He said that they are in competition not only among themselves for the storage business in the area, but are also in competition with storage facilities in other states handling California produce and imported products, such as Australian and New Zealand beef. He further stated that the regulated warehouses are in competition with unregulated proprietary warehouse facilities of manufacturers in California engaged in the processing, sale, and distribution of frozen foods. It was his opinion that because of the competitive nature of applicants' business that they should continue to maintain uniform rates. It also was his opinion that competition alone is sufficient to keep rates for storage and handling performed by public utility cold storage warehousemen at the "lowest common denominator."

The association manager testified that the comprehensive rate study which applicants have been engaged in for some time, and which was referred to in Decision No. 80037, has been completed. He said that the study could lead to a complete revision of rates, a more simplified tariff, and the combining of commodities of light densities under common rate scales. He stated, however,

6/ Certificates of public convenience and necessity issued to warehousemen do not constitute or guarantee monopoly status. This is because warehousemen are not limited in the solicitation of business to defined service areas. In seeking certificates prospective warehousemen frequently specify in their applications that they will assess the same levels of rates as existing warehousemen (See, for example, Arctic Cold Storage, Inc., Decision No. 76745 dated February 3, 1970 in Application No. 51518).

that the study is being temporarily withheld because of price controls applicable to storers.[7/] He asserted that some of the rates would be increased as much as 25 percent, whereas others would be reduced from 5 to 10 percent. He explained that because of the price controls customers could be placed at a disadvantage under warehouse rate changes of the magnitude that would be involved. The witness stated that it was for this reason that applicants seek only an offset increase of 5.5 percent.

Officers of four of the test warehouses testified in support of the application. In their testimony they confirmed the operating results shown in the financial statements in Exhibits A through D to the application, including the allocations and adjustments made by the association manager, insofar as the data relate to their respective companies. Cross-examination developed that in some instances the warehouse witnesses were unable to explain the allocation procedures used in the development of the data supplied by them to the association manager.

Other testimony of the operators, supplementing the testimony of the association manager, can be summarized as follows: Larger doors and more modern handling equipment have been purchased by some of the applicants for the purpose of offsetting the continuous increases in costs. In one instance a modern addition has been made to a warehouse. Some operators have mechanized and automated engine room and other functions, and some office work has been computerized to reduce labor costs. Operating results disclosed in the financial statements

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7/ Under Phase 3 price controls (Federal Economic Stabilization Act of 1970) food products continue under mandatory controls when they enter into a processing stage where they are intended for human ingestion. The record indicates that many of the products of applicants' storers may be in this category.

appended to the application reflect greater productivity because of the improvements. Most known improvements and efficiencies have been effectuated, short of some of the older warehouse buildings being replaced (at a very high cost). The increased labor costs reflected in Exhibits 2, 3, and 4 were contracted for and are being paid. The labor contracts (Items B and C forms) were very seriously negotiated in consideration of the anticipated increased expense to applicants. There is concern that the successive labor increases may place applicants in a noncompetitive position with respect to unregulated warehousing. In general 1971 was a good occupancy year and fairly representative. Warehouse operations for the first six months of 1972 were generally comparable to the first six months of 1971. Detailed records of unit costs are kept by some applicants relative to storage, handling, freezing, and other functions.

The operators also testified that the cold storage warehouse industry in Southern California is highly competitive; therefore, uniform rates are necessary among the applicants. It was the opinion of the operators that if a specific warehouse maintained lower rates that it would get filled first. If a warehouse maintained higher rates it would get filled only after lower rate warehouses were filled. Higher cost operators could ill afford to reduce rates in an effort to meet competition. Different rates in different warehouses would force storers to pay different charges at various locations for essentially the same services. Applicants' businesses are affected by competition between fresh foods and cold storage and frozen foods. In recent years there generally has been enough freezing and storage business for applicants as a group. Complaints from storers have been nil. The operators confirmed the testimony of the association manager that working capital equivalent to two months' operating expenses, less depreciation, is necessary to conduct business.

Counsel for applicants and for the Commission staff stipulated that if a representative of each of the remaining four test warehouses were called he would testify substantially as did the first four.

Staff Evidence

A financial examiner of the Commission staff introduced and explained Exhibits 5 and 6. Those exhibits contain facts relative to the financial condition and operating results of 11 of the applicants for the purpose of evaluating the effect the proposed 5.5 percent rate increase would have upon their public utility warehouse operations for the calendar year 1971. In arriving at operating results before the proposed increase, the witness removed rent paid to affiliates and substituted ownership costs. Allocations were made between utility and non-utility operations. In addition, a number of adjustments were made to accounting data. In measuring the effect of the proposed increase, revenue was increased 5.5 percent. No adjustments were made for revenue and expense increases which occurred during 1972. Table 4, below (from Exhibit 6), reflects operating results of the 11 applicants, after income taxes, as measured by the staff.

Table 4

Staff Computation of Rate of Return on Year End Net Plant Investment and Operating Ratio for Eleven Applicants, Calendar Year, 1971

(After Income Taxes)

Warehousemen#	Under Present Rates Operating Ratio	Under Present Rates Rate of Return	Under Proposed Rates* Operating Ratio	Under Proposed Rates* Rate of Return
Los Angeles	94.18%	3.61%	91.96%	5.26%
Pacific	85.65	15.74	83.87	18.66
Terminal	88.27	15.37	86.36	18.85
U. S. Growers	92.98	8.49	90.83	11.70
Totals for Group 1	90.55	9.00	88.52	11.53
California	87.27	14.72	85.42	17.80
Federal	91.51	15.82	89.43	20.77
National	90.75	10.65	88.71	13.72
Union	105.34	Negative	99.89	0.04
Totals for Group 2	93.87	4.66	90.96	7.25
Totals for Groups 1 & 2	91.64	7.36	89.32	9.91
Arctic	99.70	1.54	96.16	21.22
B-Lo	144.85	Negative	137.30	Negative
Rancho	94.38	3.54	90.89	6.06
Totals for Group 3	103.84	Negative	99.84	0.27
Totals for Groups 1,2 & 3	92.56	6.77	90.12	9.49

#Groups	Gross Revenues
Group 1	Over $1,000,000
Group 2	$600,000 to $1,000,000
Group 3	Less than $600,000

*Reflects 5.5 percent proposed rate increase. Does not reflect 1972 rate increase of 5.57 percent (Decision No. 80037), nor 1972 increases in operating expenses.

The staff witness made the following recommendation at Page 5 of Exhibit 5:

> "It is recommended that the applicants' sought increases be considered and treated individually by companies, in order that the Commission may properly determine each applicant's needs and compliance with the Federal Economic Stabilization Act of 1970, as promulgated in the Commission's Rule 23.1 of its Rules of Procedure."

Counsel for the Commission staff stated that it is the staff position that the provisions of Rule 23.1 do not permit the Commission to grant rate increases to warehousemen based upon composite revenue needs of applicants as a group, citing Decisions Nos. 79361 and 80385. He argued that all of the 16 applicants have not proven a need for a 5.5 percent increase across the board. He further argued that applicants have granted and are paying wage increases in excess of the guidelines (approximately 15 percent annual increase), and that applicants have not demonstrated that such increases are not inflationary. The staff counsel recommended that any wage increases allowed in this proceeding be held to the guideline of 5.5 percent for the purpose of determining whether or not the applicants individually are entitled to any rate increase. The staff made no specific recommendations concerning rate levels that would be required to offset revenue needs of individual applicants.

Counsel for applicants had no objection to the financial results shown by the staff in Exhibits 5 and 6. He did not cross-examine the staff witness, explaining that differences between results reached by the staff and by applicants appear to be very small. Applicant's attorney opposed the staff recommendation, stating that it is essential for the operators to maintain the same levels of rates if the public is to be served in a fair manner. Applicants' counsel stated that the wage increases sought to be passed on to ratepayers are not in excess of the guidelines under Rule 23.1 because the contracts were signed and became effective prior to the guidelines (November 8, 1971).

Other Evidence

The executive director of the Pacific Egg and Poultry Association testified in opposition to the proposed increase insofar as it would affect storers who are members of his association. It was his opinion that storers of eggs and poultry, including turkeys, could not pass the increased warehouse rates on to the consumer. He stated that federal price controls prohibit his members from passing along increased costs which means that the processor must either absorb the increases or pass them back to the producer (see footnote 7, hereof). The witness said that the egg and poultry businesses have both been depressed. Eggs have sold at the wholesale level below the cost of production for over two and a half years. He stated that his members have a very strong need for the warehouse services performed by applicants. He suggested that the sought rate relief be moderated to provide applicants a 7.0 percent rate of return on total investment.

Discussion

The record is clear that applicants did not achieve in 1971, and do not currently attain, the estimated composite results of operation relied upon by the Commission as the bases for the rate increase authorized by Decision No. 80037. The record shows that applicants as a group are in need of additional revenue to offset measured increased operating costs, principally wages, that have occurred since their rates were last adjusted. The estimated operating results show that the proposed 5.5 percent increase in rates will return applicants to approximately the same composite operating ratio sought in connection with rates authorized by Decision No. 80037. The record discloses that there are certain unmeasured operating expenses (maintenance and repair, and materials and supplies) that have not been reflected in the projected operating results. For this reason applicants probably will experience slightly less favorable operating results than anticipated.

The recommendation of the witness for the Pacific Egg and Poultry Association that applicants be held to a lesser rate of return than sought cannot be adopted. A reduction in the projected overall rate of return of 8.2 percent to 7.0 percent, as suggested, would be accompanied by an increase in the composite operating ratio. Warehouse rates must be sufficient to permit efficient operators to provide adequate and dependable service. Since applicants did not achieve the operating results anticipated in the prior proceeding, and since the proposed 5.5 percent increase in rates would do no more than return them to approximately the same anticipated overall operating levels, a reduction in the projected revenue requirements is not justified. Applicants stated that they have withheld the results of their overall rate study largely in recognition of the fact that storers of processed foods are subject to mandatory price controls.

The record indicates that some of the individual operators are in need of greater increases in rates than sought, whereas others may need less than sought. This is typical of individual operating results reflected in prior proceedings. Applicants individually have determined, however, that it is necessary for them to continue generally uniform rates in the face of strong competition, not only among themselves, but from various unregulated storage facilities both within and without the State. The testimony of applicants' witnesses illustrates the undesirable results that probably would occur to the warehousemen and to their patrons if they should commence publication of different levels of rates. Uniformity of rates is essential, even though widely differing operating results may be experienced thereunder, as among the respective warehousemen. We are convinced that the pattern of rate making that has been instituted by these applicants, and which has been reviewed periodically by the Commission should be continued.

It was not intended that Rule 23.1 should require changing long established patterns of warehouse rate making. We held in Decision No. 80770 dated December 5, 1972 in Application No. 52812, involving rates in the San Francisco-East Bay area, that there is nothing in Rule 23.1 which requires the Commission to depart from the practice of utilizing composite operating results of individual warehousemen to determine the revenue needs of a group of warehousemen. The practice employed in that proceeding was similar to that utilized by applicants in this proceeding.

Findings

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 unregulated warehousing for the cold storage business in that area.

2. Each of the applicants maintains generally the same levels of rates and charges for their services. Their present rates and charges were authorized by the Commission in its Decision No. 80037 dated May 9, 1972 in Application No. 52894.

3. In Decision No. 80037 the Commission found, based on the test year 1970, that the rates and charges authorized therein would provide, at September 1971 expense levels, an operating ratio of 90.8 percent and a rate of return of 9.9 percent, after income taxes. For 12-month periods centering about the calendar year 1971 the actual results of applicants' operations, as shown in Table 1 of this opinion, collectively show an operating ratio of

92.9 percent and a rate of return of 5.8 percent. The allocations and adjustments which underlie Table 1 (from applicants' Exhibits C and D) are reasonable for the purposes of this proceeding.

4. For the same 12-month periods the results of applicants' operations, adjusted to reflect July 1, 1972 expense levels, and adjusted to reflect revenues at the proposed rates, as shown in Table 2 of this opinion, collectively show an operating ratio of 90.9 percent and a rate of return of 8.2 percent, after income taxes. The estimates of operating results of applicants under the proposed rates, as summarized in Table 2, are reasonable estimates and should be adopted.

5. Table 4 (from staff Exhibit 6) shows a composite operating ratio of 92.56 percent (after income taxes) for the calendar year 1971 for 11 selected applicants, and a rate of return of 6.77 percent, which results are comparable to applicants' actual operating results for 16 operators, as shown in Table 1.

6. Applicants, as a group, are in need of additional revenues to offset the increases in operating costs which have been experienced since the rates here in issue were last adjusted. The revenues to be derived from the proposed increase in rates will do no more than offset increases in expenses already incurred.

7. The 5.5 percent increase in rates sought by applicants has been justified and the sought disposition of fractions rule is reasonable for application to the sought increased rates.

8. The applicant warehousemen require general uniformity of rates to compete effectively. Different levels of rates for individual warehouse operators would require the warehousemen maintaining rates higher than their competitors to either (1) forego new business until the warehouse facilities of their

competitors who maintain lower rates are substantially filled to capacity, or (2) reduce their rates to lower levels of rates maintained by competing warehousemen.

9. The first alternative described in the preceding finding would result in unduly discriminatory rates to storers who cannot find space in the warehouse facilities having the lowest rates. Also undue discrimination would result because storers would pay different rates for the same service depending upon the warehouse facility in which their goods were stored. The second alternative described in the preceding finding would result in the warehouse operator having the most favorable operating ratio setting the level of rates for all competing warehousemen. Most warehousemen could not raise their rates to achieve profitable operations. Warehousemen whose operations continue to be unprofitable over a period of time would fail, thus unduly restricting the amount of warehouse space available to the public.

10. Table 3 of this opinion shows that the relative profitability of the operations of some of the individual warehousemen varies widely from one fiscal period to the next. Because of this it would be improper to select the most profitable operator as the rate-setter for all competing warehousemen, or grant varying amounts of, or percentage increases in, rates of individual warehousemen for a particular fiscal period.

11. The composite operating ratios of a group of representative warehousemen provide a better indication of the changes in the relative profitability and the revenue needs of the warehouse industry as a whole in a given area than the operating ratios of individual competing warehousemen. (Decision No. 80989 dated January 30, 1973 in Application No. 53404.)

12. It is necessary for the financial well-being of the warehouse industry in a particular area to consider revenue needs on the basis of the composite or overall revenue needs of the entire group of competing warehousemen, or a selected group of competing warehousemen who are representative of the group as a whole.

13. The selection of the group of eight test warehousemen as being representative of the operations of the 16 applicants herein for the purposes of this proceeding is reasonable.

14. There is nothing in Rule 23.1 of the Commission's Rules of Procedure 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 (Decisions Nos. 80770 and 80989).

15. In compliance with Rule 23.1 of this Commission's Rules of Procedure we find and determine:

a. The rate increase is cost justified. The increased revenue sought in this proceeding is to offset increases principally in wages, taxes, and power, occurring since rates were last adjusted.

b. The increased wage and other costs sought to be recovered in this phase of the proceeding are those currently being experienced by the applicant warehousemen.

c. The labor costs applicable to employees of applicant warehousemen are under three-year contracts initially placed in effect in June and July 1971, and which are scheduled to expire in 1974.

d. The proposed rate increase is the minimum required to assure continued, adequate, and safe service of applicants.

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 does not show that there are any productivity gains susceptible to quantitative measurement available to the applicant warehousemen which they have not implemented in their current operations.

g. No public utility cold storage warehouseman operating in the southern California area appeared at the hearing to present evidence expressing a willingness and capacity to provide the current services of applicants at existing rates.

16. The procedures of the Commission provided for reasonable opportunity for participation by all interested persons or their representatives. Approximately 3500 notices of hearing were sent by the operators to their storers.

The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

1. Applicants are authorized to establish the increased rates proposed in Application No. 53509, and to cancel the tariff provisions specified in Exhibit 1. 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 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.

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

Dated at San Francisco, California, this 1st day of MAY, 1973.

Vernon L. Sturgeon
President

William Symons Jr.

Thomas Moran

D. W. Holmes

Commissioners

I dissent

J. P. Vukasin Jr., Commissioner.