

Decision No. 81657

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates, charges, and practices of  
Advance Truck Company, a California  
corporation.

Case No. 9462  
(Filed October 31, 1972)

Knapp, Gill, Hibbert & Stevens, Attorneys at Law,  
by David P. Christianson, Attorney at Law, for  
respondent.

James Quintrall, for M & M Transfer Co.; and  
A. D. Poe, R. W. Smith, Attorneys at Law, and  
H. W. Hughes, for California Trucking Associa-  
tion; interested parties.

Robert T. Baer, Attorney at Law, for the Commission  
staff.

### O P I N I O N

By its order dated October 31, 1972 the Commission instituted an investigation into the operations, rates, charges, and practices of Advance Truck Company (Advance) to determine (1) whether the operations of Advance are those of a warehouseman as defined by Section 239(b) of the Public Utilities Code and (2) whether Advance has violated Section 1051 of the Public Utilities Code by operating as a warehouseman without first having obtained a certificate of public convenience and necessity.

Public hearing was held in Los Angeles on February 15, 1973. The matter was submitted subject to the filing of briefs, the last of which was filed on April 6, 1973.

The evidence discloses that respondent operates a 25-acre pipe storage yard in the city of Carson. The pipe stored is used principally in the oil well industry. The storage yard is completely surrounded by a 6-foot cyclone fence with an 18-inch barbed wire attachment on top. Gates with locks are located in the fence for access. At any given time between 27,000 and 40,000 tons of pipe are stored by respondent. During the months of March, April, and May, 1973 respondent stored pipe for 50, 46, and 46 accounts, respectively. Respondent's storage rates are set forth in Exhibit 12. Accounts from any and all entities are accepted so long as their credit is good and they do not wish to store pipe in excess of 42 inches in diameter.

Section 239(b) of the Public Utilities Code defines "warehouseman" as follows:

". . . .

"(b) Every corporation or person owning, controlling, operating, or managing any building, structure, or warehouse, in which merchandise, other than secondhand household goods or effects, and other than liquid petroleum commodities in bulk, and other than baled cotton, and other than merchandise sold but retained in the custody of the vendor, is stored for the public or any portion thereof, for compensation, within this State, except warehouses conducted by any nonprofit, cooperative association or corporation which is engaged in the handling or marketing of the agricultural products of its members and warehouses conducted by the agents, individual or corporate, of such associations or corporations, while acting within the limitations imposed by law on their principals."

### Discussion

The question presented is whether a fenced storage yard is a "building, structure, or warehouse" within the probable meaning of those words as used in Public Utilities Code Section 239(b). Consideration of the dictionary, or general, definitions of these three key words does not answer the question. "Building" probably does not include "fence" within its meaning (Webster's New International Dictionary 2d ed 1939), while "structure" and "warehouse" might include fence in one context but not in another.

We must look to the purposes or functions of warehousing to decide whether respondent's fenced yard is covered by Public Utilities Code Section 239(b). The two primary purposes of warehousing, we believe, are to secure goods from theft, arson, and vandalism, and to protect goods from the elements. A building or structure which provides both of these services is a warehouse, and one which provides but one is not. Respondent's fenced yard does provide security from theft, etc., but does not protect the stored pipe from the natural elements. It lacks one of the essential warehousing functions which we believe the Legislature intended to constitute warehousing when it used the words "building, structure, or warehouse". Had the Legislature intended open or fenced storage to be included within Section 239(b), it could have easily added words appropriate to make clear such intention.

### Findings

1. Respondent operates a 25-acre pipe storage yard in the city of Carson.
2. The storage yard is completely surrounded by a fence.
3. Gates with locks are located in the fence for access.
4. At any given time between 27,000 and 40,000 tons of pipe are stored by respondent.

5. During the months of March, April, and May respondent stored pipe for 50, 46, and 46 accounts, respectively.

6. Respondent's storage yard does not protect goods stored thereon from the elements.

Conclusion

Respondent is not a warehouseman as defined in Section 239(b) of the Public Utilities Code.

O R D E R

IT IS ORDERED that Case No. 9462 is discontinued.

The Secretary of the Commission is directed to cause service of this order to be made upon respondent.

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

Dated at JULY San Francisco, California, this 31<sup>st</sup>  
day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
President  
*William J. ...*  
\_\_\_\_\_  
\_\_\_\_\_  
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

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