

Decision No. 81756**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Dreisbach Cold Storage Co., Growers')
 Refrigeration Company, Haslett Com-)
 pany, Merchants Ice and Cold Storage)
 Company, Schaefer's Meats, Union Ice)
 & Storage Company, United Cold Stor-)
 age, and United States Cold Storage)
 of California, for an increase in)
 rates.)

Application No. 53508
 (Filed August 4, 1972)

Vaughan, Paul & Lyons, by John G. Lyons, Attorney
 at Law, and Jack L. Dawson, for applicants.
William D. Mayer, for Cannery League of California,
 interested party.
Walter H. Kessenick, Jr., Attorney at Law, Robert
Anderson, Robert Shoda, and Clyde Neary, for
 the Commission staff.

O P I N I O N

This application was heard January 4 and 5, 1973 before
 Examiner Thompson and was submitted.

Applicants are cold storage warehousemen in the San
 Francisco Bay Area. By this application they seek authority to
 increase by 12.4 percent their rates maintained in California Ware-
 house Tariff Bureau Cold Storage Warehouse Tariff No. 18, and in
 Growers' Refrigeration Company Cold Storage Warehouse Tariff No. 4 for
 freezing, storage, handling, and other services incidental thereto.
 The rates were last increased generally effective January 10, 1971,
 pursuant to authority granted by the Commission in its Decision
 No. 78120 dated December 22, 1970 in Application No. 52095.

Since the effective date of the last general rate adjustments the warehousemen have experienced increases in their cold storage operation costs. One of the larger increases in expense has been in labor costs. Since January 1971 applicants' average plant labor cost, not including holidays, vacations, sick leave, paid time not worked and supervision, has increased 89 cents per hour or approximately 17 percent.

In projecting revenues and expenses for a future rate year, applicants utilized test fiscal years ended around December 31, 1971. The projections consider expense levels as of July 1972. The results from public utility warehouse operations for the test years centering about the calendar year 1971 are shown below in Table I. The projected results at July 1972 expense levels and at the proposed increased rates are set forth below in Table II. In every instance the amounts of income taxes shown were computed on the earnings of the public utility cold storage warehouse operations in the San Francisco Bay Area. A number of applicants are engaged in other business activities, some of which are subject to regulation by the Commission and some of which are not.

TABLE I

Results of Public Utility Warehouse Operations
(Test Year 1971)

<u>Warehouseman</u>	<u>Revenues</u>	<u>Operating Expenses</u>	<u>Income Taxes</u>	<u>Profit or loss</u>	<u>Operating Ratio</u>	<u>Rate of Return</u>
Dreisbach	\$ 937,450	\$ 883,480	\$ 21,370	\$ 32,600	96.5%	2.9%
Growers	182,951	167,632	4,207	11,112	93.9	6.8
Merchants	436,820	471,473	100	(34,753)	108.0	-
United Cold Storage	254,486	236,380	4,972	13,134	94.8	4.5
U.S.Cold Storage	1,352,229	1,134,047	106,850	111,332	91.8	4.4
Subtotal	3,163,936	2,893,012	137,499	133,425	95.8	2.7
Haslett	15,439	44,792	100	(29,453)	290.0	-
Schaefers	97,190	94,897	630	1,663	98.3	0.6
Union Ice	45,898	32,037	3,806	10,055	78.1	19.5
All Warehousemen	3,322,463	3,064,738	142,035	115,690	96.5	2.2

TABLE II

Projected Results of
Public Utility Warehouse Operations
at Proposed Rates

Dreisbach	\$1,055,801	\$ 931,230	\$ 57,828	\$ 66,743	93.7%	5.9%
Growers	206,048	175,344	9,356	21,348	89.6	12.9
Merchants	491,887	491,658	100	129	99.9	-
United Cold Storage	286,614	247,555	13,670	25,389	91.1	8.6
U.S.Cold Storage	1,522,945	1,185,558	168,779	168,608	88.9	6.5
Subtotal	3,563,295	3,031,345	249,733	282,217	92.1	5.7
Haslett	17,388	45,079	100	(27,791)	260.0	-
Schaefers	111,098	99,262	3,250	8,586	92.3	3.3
Union Ice	51,693	32,157	5,365	14,171	72.6	27.3
All Warehousemen	3,743,474	3,207,843	258,448	277,183	92.6	5.2

(Red Figure)

In Decision No. 78120 the estimated results for a rate year of utility cold storage operations of the five applicants^{1/} having revenues in excess of \$100,000 per year at the rates authorized in that decision were set forth:

Revenues	\$3,019,257
Expenses (as of 6-1-70)	2,786,996
Operating Ratio after Taxes ..	92.3%
Rate of Return after Taxes ...	4.5

Those results are comparable to those set forth in the subtotal in Table II for those same warehousemen.

Applicants notified each storer in their respective warehouses of the proposal to increase rates and also notified them of the time and place of hearing in this application. No protest from any storer has been received by the Commission.

The Commission staff asserts that not all of the applicants are in need of increased revenues. It argues that justification for a rate increase should be considered with respect to the individual applicants and not be based upon combined operating results. It also asserts that Rule 23.1 of the Commission's Rules of Procedure does not contemplate providing an individual warehouseman with a return in excess of the minimum needed to attract capital at reasonable cost and not to impair the credit of the utility. Those arguments were laid to rest by the Commission in Decision No. 81316 dated May 1, 1973 in Application No. 53509 concerning an increase in the rates of 16 public utility warehousemen providing freezing and cold storage in the Los Angeles Area, and we quote therefrom:

"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 rate levels. Uniformity of rates is essential, even though widely differing operating results may be experienced thereunder,

^{1/} The five warehousemen were identified in Decision No. 78120 as Dreisbach Cold Storage Co., Growers' Refrigeration Co., Merchants Ice and Cold Storage Co., United Cold Storage, and United States Cold Storage of California.

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." "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."

Insofar as those particular issues are concerned, the facts in the instant proceeding are identical with those recited in Decision No. 81316.

The Commission staff asserts that there has not been sufficient showing that the rates and charges for all services provided by applicants should be increased by a uniform percentage. It refers to the evidence presented by applicants that the greater increases in expenses have been in labor costs. It cites decisions of the Commission in which it has been found that labor costs comprise the substantial portion of the costs of providing handling services whereas labor costs are minimal in connection with storage services. The staff states that it believes "and the Commission has stated in Decision No. 79361 [dated November 22, 1971 in Application No. 52549] that costs are an indispensable item in setting fair and reasonable rates for service", and that without a breakdown in revenues and costs as to the various services it cannot be ascertained which services are profitable and which services are not. The quoted portion does not accurately state the holding of the Commission in Decision No. 79361. That decision states:

"Neither can we accept applicants' argument that the costs of the services involved should not be considered. Just as whether the rates reasonably return the costs of service is a definitive factor in determining the propriety of the rates from applicants' standpoint so it is also in determining the propriety of the rates from the standpoint of applicants' patrons.

Moreover, inasmuch as it is evident that applicants' handling and miscellaneous services, on the one hand, and the storage services, on the other hand, are performed under different costs, the factor of costs becomes an inextricable consideration in determining how cost increases, which fall unequally on said services, should be borne by applicants' ratepayers."

Warehousing is one service in the system of marketing and distribution of products. The individual services of a warehouseman are utilized only when they provide for greater reliability in the marketing of the product or when they result in lower unit costs of distribution of the product. In obtaining business applicants not only compete among themselves but also with other agencies in the distribution and marketing process. In attempting to meet such competition the warehouseman must consider the costs of alternative means available to producers and distributors of placing goods in the market. Factors that determine whether a public utility warehouseman can compete in obtaining business include costs of private warehousing, freight rates (both carload and any quantity) together with warehousing costs in other localities, and time in transit via various agencies of transportation. Warehouse services are intertwined with transportation services in that both combine the function of the distribution of goods. The user of warehouse services is not so much concerned with the rates for individual services as with the effect of the rates for warehouse services upon his unit cost of placing his goods in the market place and the effect of those warehouse services upon his ability to provide an expeditious and reliable supply of goods to his customers. The value of the services provided by warehousemen is dominated by competitive forces and the considerations in fixing rates for those services are similar to those involved in fixing freight rates. As in the case of transportation freight rates, cost of providing the services is an element to be considered in fixing rates for services provided by warehousemen, but is not necessarily the controlling or

dominating factor in considering whether such rates are just, reasonable, or nondiscriminatory. Decision No. 79361 should not be given a broad reading that the factor of the cost of individual service is definitive in the fixing of just, reasonable, and nondiscriminatory rates for every warehouse service.

The case at bar should be considered in the light of Pacific Southcoast Freight Bureau (1969) 70 CPUC 177, a proceeding by all railroads for authority to make effective a general increase in rates and charges, where the Commission held:

"It is clear that findings of fact as to the reasonableness of increased rates resulting from a general revenue proceeding would be inappropriate, for the reasons that the data required to support such findings could place an insurmountable evidentiary burden upon applicants, and because the Commission has consistently incorporated in its orders in this type of proceeding a 'savings' clause, indicating that it has specifically refrained from making such findings so that there will be no impediment to future complaint actions under Section 734 of the Public Utilities Act.

"Therefore, we conclude that the proper legal standard to be applied in a so-called 'general revenue' proceeding in determining whether or not the sought increases have been justified is the standard heretofore adopted by the Commission, as expressed in Decision No. 73520 and prior proceedings. . . . We further conclude that, as a matter of law, it is not necessary nor appropriate to investigate, in a general revenue proceeding, the reasonableness of every increased rate or charge, nor to make findings of fact with respect thereto; the exception to this conclusion is the instance where a protestant raises the issue and adduces evidence as to whether the proposed increases will result in rates for particular commodities or services which will exceed maximum reasonable rates." (70 CPUC at 188.)

Staff's argument is that where the increase in costs results substantially from increases related to labor, and the handling services involve a much higher portion of labor than do

storage services, the apportioning of the increase in the total cost burden equally between storage and handling services is unjust, contributes to discrimination in rates between the services, and results in the rates for storage being unreasonable, per se, by reason of comparison with the rates for handling. It asserts that applicants should be required to present proper cost and revenue studies to support any increase in rate for each service. We find such argument and assertion to be without merit. We conclude that the same procedure should govern issues in a general revenue proceeding involving the rates of warehousemen as obtains with respect to general revenue proceedings involving the rates of railroads.

We find that:

1. Applicants, and each of them, are public utilities engaged in cold storage warehousing at one or more locations in the San Francisco Bay Area and compete among each other and with unregulated warehousing for cold storage business in that area, and are in competition for business involving the distribution of products in the San Francisco Bay Area and elsewhere with public and private warehouses outside of that area and with common carrier services.

2. All of the applicants maintain generally the same level of rates and charges for their services. Their present rates and charges were authorized by the Commission in its Decision No. 78120 dated December 22, 1970 in Application No. 52095.

3. In Decision No. 78120 the Commission found that the rates and charges authorized therein would provide, at June 1, 1970 expense levels, an operating ratio of 92.3 percent and a rate of return of 4.5 percent, after income taxes, for the utility warehouse operations conducted by applicants collectively. For 12-month periods centering about the calendar year 1971 the actual results of the combined public utility warehouse operations conducted by applicants, as shown in Table I of this opinion, were 96.5 percent operating ratio and 2.2 percent rate of return.

4. Applicants propose to increase all rates and charges by 12.4 percent. For the test year centering about 1971, adjusted to reflect revenues at the proposed rates and adjusted to reflect expense levels as of July 1972, the operating results would be as shown in Table II of this opinion; namely, an operating ratio of 92.6 percent and a rate of return of 5.2 percent, after income taxes, for public utility warehouse operations conducted by applicants collectively.

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

6. The increase is cost-justified and does not reflect future inflationary expectations.

7. The increase is the minimum required to assure continued adequate and safe service.

8. The increase will achieve the minimum rate of return needed to attract capital at reasonable costs and will not impair the credit of the applicants.

9. The proposed rate increase takes into account expected and obtainable productivity gains.

10. All storers of property in applicants' warehouses and all parties known to have an interest in this matter were notified of the filing of this application and were notified of the time and place of hearing. There are no protests.

11. The proposed increase in rates is justified.

We conclude that the application should be granted.

We further conclude that a finding as to whether each and every one of the proposed rates is reasonable or otherwise lawful is not necessary and will not be made.

O R D E R

IT IS ORDERED that:

1. Applicants are authorized to establish the increased rates proposed in Application No. 53508. 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 21st day of AUGUST, 1973.

Vernon L. Sturgeon
President
William Lysons Jr.

Robert T. ...
Commissioners

Commissioners

Commissioners