

**ORIGINAL**

Decision No. 82996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of (a) FEDERAL ICE & COLD )  
STORAGE COMPANY to sell and transfer )  
its prescriptive operative right and )  
related public utility warehouse )  
property to WILLIAM R. MOORE, JR., )  
ELLIOT C. VORST, ARTHUR D. GOLDEN )  
and SAMUEL S. GOLDEN, a partnership )  
doing business as VERNON PROPERTIES; )  
and of )

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(Filed May 30, 1974)

(b) the said VERNON partnership to )  
lease said right and property to )  
PACIFIC COLD STORAGE, INC.; and of )

(c) the said VERNON partnership for )  
exemption under Sections 829 and 853 )  
of the Public Utilities Code from the )  
provisions of said Code otherwise )  
requiring Commission authorization )  
for the issuance of a long-term note )  
and the execution of a deed of trust. )

O P I N I O N

Federal Ice & Cold Storage Company seeks authority to sell and transfer its prescriptive operative right and related public utility warehouse property to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, and the latter seek authority to lease said right and property to Pacific Cold Storage, Inc. In addition, said partners seek exemption from the provisions of Article 5, Chapter 4, Part 1, Division 1 of the Public Utilities Code with respect to the issuance of a long-term note and from the provisions of Section 851 of the Public Utilities Code with respect to the execution of a Deed of Trust.

Federal Ice & Cold Storage Company is a California corporation operating as a public utility warehouseman in Vernon pursuant to the prescriptive operative right set forth in the Order dated August 1, 1960, in Case No. 6703. For the fiscal year ended March 31, 1974, it reports operating revenues and net income in the respective amounts of \$1,109,335 and \$165,617.

Pacific Cold Storage, Inc. is a California corporation operating as a public utility warehouseman in Vernon pursuant to the prescriptive operative right set forth in the Order dated September 1, 1960, in Case No. 6789. For the year 1973, it reports operating revenues and net income in the respective amounts of \$1,517,720 and \$341,043.

Federal Ice & Cold Storage Company proposes to transfer its public utility warehouseman prescriptive operative right and related assets to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, and the latter partners propose to lease said right and property to Pacific Cold Storage, Inc. Inasmuch as the partners do not intend to engage in public utility operations, they seek exemption from the provisions of Article 5, Chapter 4, Part 1, Division 1 of the Public Utilities Code with reference to the financing involved in the proposed transfer, and from the provisions of Section 851 of the Public Utilities Code with respect to the related Deed of Trust.

The application indicates that the operative right and property proposed to be transferred would be available to Pacific Cold Storage, Inc. under a long-term lease, and that Pacific Cold Storage, Inc. intends to continue the public utility warehouseman operations presently conducted by Federal Ice & Cold Storage Company.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The application of Article 5, Chapter 4, Part 1, Division 1 of the California Public Utilities Code to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, is not necessary in the public interest.
3. The application of Section 351 of the California Public Utilities Code with respect to the execution of a Deed of Trust by William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, is not necessary in the public interest.
4. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary.

The order which follows will provide for, in the event the transfer is completed, the revocation of the warehouseman prescriptive operative right presently held by Federal Ice & Cold Storage Company and the issuance of a certificate in appendix form to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties.

William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden are placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as

the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The authorization herein granted shall not be construed as a finding of the value of the operative right and properties authorized to be transferred, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before September 30, 1974, Federal Ice & Cold Storage Company may sell and transfer the warehouseman prescriptive operative right and property referred to in the application to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, and the latter may lease said right and property to Pacific Cold Storage, Inc.
2. Within thirty days after the transfer William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden shall file with the Commission written acceptance of the operative right and a true copy of the bill of sale or other instrument of transfer.
3. Pacific Cold Storage, Inc. shall amend or reissue the tariffs of Federal Ice & Cold Storage Company on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective

not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-Series. Failure to comply with the provisions of General Order No. 61-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, authorizing them to operate as a public utility warehouseman, as defined in Section 239(c) of the Public Utilities Code, for the operation of storage or warehouse floor space set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the prescriptive right herein considered, which is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, a copartnership doing business as Vernon Properties, are hereby exempted from the provisions of Article 5, Chapter 4, Part 1, Division 1 of the California Public Utilities Code, and from the provisions of Section 351 thereof with respect to the execution of a Deed of Trust.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day  
of JUNE, 1974.

Vernon L. Stevenson  
President  
William S. Symons  
W. M. Miller  
Charles M. ...  
...  
Commissioners

William R. Moore, Jr.,  
Elliot C. Vorst,  
Arthur D. Golden and  
Samuel S. Golden  
(doing business as VERNON PROPERTIES)  
(a partnership)

William R. Moore, Jr., Elliot C. Vorst, Arthur D. Golden and Samuel S. Golden, dba VERNON PROPERTIES, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to operate as a public utility warehouseman as defined in Section 239(c) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Vernon	250,000

(The floor space shown is exclusive of  
the expansion permissible under Section  
1051 of the Public Utilities Code.)

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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