

**ORIGINAL**

Decision No. 83644

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BEALL REFRIGERATION COMPANY for authorization to transfer its Prescriptive Operative Rights to operate as a public utility cold storage warehouseman to C. C. G. REFRIGERATION, INC., a California corporation, and application of C.C.G. REFRIGERATION, INC. to operate the same public utility cold storage plant under Certificate of Convenience and Necessity at Santa Clara, California.

Application No. 55236  
(Filed October 7, 1974)

O P I N I O N

Beall Refrigerating Company (Beall), also known as Beall Refrigeration Company, operates as a public cold storage warehouseman under prescriptive operative rights (Case No. 6556) at 2650 Lafayette Street, Santa Clara, California. The storage under refrigeration is approximately 32,865 square feet.

On October 2, 1974 the San Leandro Packing Company, a California corporation, changed its name to C.C.G. Refrigeration, Inc. (CCG). It proposes to operate the Beall facility as a public cold storage warehouse subject to a partial restriction of public trade during the months of July, August, and September in order to provide storage for its parent company, California Cannery and Growers, Inc.

It is alleged that Beall is a family held corporation and the owners are anxious to get out of the warehouse business. The purchase price includes \$435,000 for the real property and \$26,585 for forklifts and other operating equipment. Payment will be in cash when the transfer is made. CCG has just incorporated and its October 28, 1974 balance sheet shows a net worth of \$128,078 and a

projected operating revenue of \$216,600 for 1975, with a net income of \$7,400. It can also obtain financial support from its parent company, California Cannery and Growers, Inc.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest.

We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

A public hearing is not necessary.

The transfer will be accomplished by revoking the original operative right and issuing a new certificate in appendix form to CCG.

C.C.G. Refrigeration, Inc. is 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 canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to C.C.G. Refrigeration, Inc., authorizing it to operate as a public utility warehouseman, as defined in Section 239(b) 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.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to file annual reports of its operations.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten day's notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-Series.

3. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional service

in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

4. The prescriptive operative right set forth in Commission order dated June 20, 1960 in Case No. 6556 is revoked effective concurrently with the effective date of the tariff filings required by 2(b).

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup>  
day of OCTOBER, 1974.

Vernon L. Stinson  
President  
William J. Lyons  
Robert E. McDavid

Commissioners

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

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

C.C.G. Refrigeration, Inc., a California corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is 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: (See Note)

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Santa Clara	32,865

Note: Subject to a partial restriction of public trade during the months of July, August and September in order to accommodate the storage of cannery fruit by its parent company, California Cannery and Growers, Inc.

(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.

Decision No. 83644, Application No. 55236.