

IRA

Decision No. 15925-

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
PUBLIC UTILITIES STORAGE COMPANY )  
for permission to issue and sell )  
stock. )

Application No. 11998

E. S. Page, for applicant.

DECOTO, COMMISSIONER:

OPINION

The Public Utilities Storage Company, a corporation, in its application as originally filed asked permission to issue \$1,000,000. of seven percent cumulative participating preferred stock and \$375,000. of common stock for the purposes hereinafter stated. At the hearing had on January 15 the company modified its request for permission to issue preferred stock and limited the amount thereof to \$400,000.

The Public Utilities Storage Company was organized during October 1925 and has an authorized stock issue of \$3,000,000. divided into 100,000 shares of preferred stock of the par value of \$10. each and 200,000 shares of common stock of the par value of \$10. each. The Articles of Incorporation provide that the holders of the preferred stock shall be entitled to receive, when and as declared, from and out of the surplus or net

profits of the corporation, dividends upon the par value of shares of preferred stock at the rate of seven percent per annum payable semi-annually on dates to be determined by the directors of the corporation. The dividend on such stock shall be cumulative and shall be payable before any dividends are paid on the common stock of the company. After the payment of dividends on the common stock at the rate of seven percent per annum, the holders of the preferred and common stock shall share equally in any further dividend or dividends declared during any year. The company reserves the right to redeem the preferred stock by paying to the holder thereof the par value of the stock together with all accrued and unpaid dividends thereon and in addition thereto one dollar per share.

Applicant intends to erect and maintain grain elevators and loading stations at different points in the State of California and ship and store grain in bulk. The cost of loading stations and warehousing elevators is estimated by applicant in its Exhibit No. 5 at \$277,500. divided as follows:

25 loading stations, 5,000 bushels capacity @ \$2,500. each - - - - -	\$62,500.
15 warehousing elevators, 20,000 bushels capacity @ \$6,000. each - - - - -	90,000.
10 warehousing elevators of 50,000 bushels capacity @ \$12,500. each- - - -	<u>125,000.</u>
Total-----	<u>\$277,500.</u>

To provide itself with the \$277,500. and such other amounts as appear hereafter, applicant proposes to issue \$400,000. of its seven percent cumulative preferred stock and sell the same at not less than \$95. per share. It asks permission to use the

proceeds from the sale of the stock for the following purposes:-

To construct loading stations and warehousing elevators - - - - -	\$277,500.
To pay commissions to sell stock - - - - -	60,000.
To pay organization expenses - - - - -	2,500.
To pay miscellaneous expenses- - - - -	10,000.
To provide itself with working capital - - -	<u>50,000.</u>
Total-----	<u>\$400,000.</u>

In its Exhibit No. 5 applicant submits the following estimated revenues and expenses:-

Revenues - - - - -	-\$215,800.
Expenses - - - - -	<u>107,225.</u>
Net Earnings-----	\$108,575.

From the net earnings applicant deducts fifteen percent (\$16,286.) as a safety factor, which leaves a net of \$92,289. The dividend on \$400,000. of preferred stock at the rate of seven percent per annum amounts to \$28,000. which, if deducted from the \$92,289. leaves available for surplus and dividends on common and additional dividends on preferred stock of \$64,289.

Applicant also asks permission to issue \$375,000. of its common stock to the Oakland Terminal and Elevator Corporation as compensation for services which that company is to agree to render. This stock is to be issued during a period of ten years at the rate of 5,000 shares per annum during the first five years and at the rate of 2,500 shares during the remaining five years. There has been filed in this proceeding as applicant's Exhibit No. 4 a proposed agreement between Oakland Terminal and

Elevator Corporation and the Public Utilities Storage Company. Under the terms of this agreement the Public Utilities Storage Company employs the Oakland Terminal and Elevator Corporation to assist it in accomplishing the purposes for which the applicant corporation has been organized, such employment to continue until at least thirty-five loading stations and elevators have been erected by applicant. The Oakland Terminal and Elevator Corporation agrees that it will furnish at its own expense such members of its organization as it may have available to assist applicant in its work. The agreement provides that traveling and other expenses which may be incurred by the elevator corporation for the benefit of applicant, shall be paid by applicant, provided that no salary shall be paid for the service of the employees of the elevator corporation unless such employees shall be directly employed for the operation or erection of some particular station. The elevator corporation agrees to furnish to applicant free office space at its elevator and warehouse building and for the first year that the agreement is in effect, furnish applicant without cost the use of its office force for the purpose of keeping books of applicant. Applicant must pay the cost of supplies and direct expenses such as postage, telephone, and telegraph. The elevator corporation further agrees that it will assist applicant in preparing plans for loading elevators; that it will procure bids and estimates for the same and that it will assist applicant in getting each station into working order. The elevator corporation further agrees that it will procure operators for such stations and elevators as are erected; that it will furnish and procure data for the benefit of applicant for the

purpose of promoting the erection of such loading stations and elevators and that it will furnish members of its organization to assist in inducing grain growers to invest in and erect such stations and elevators; further, that it will assist applicant in developing an organization and that it will, at the request of applicant, take charge of the entire operation of such organization without charge other than the compensation hereinafter mentioned, except the direct cost of operation. For the services thus rendered the Oakland Terminal and Elevator Corporation is to receive, as said, \$375,000. of common stock which shall be issued during a period of ten years at the rate of 5,000 shares per annum for the first five years and at the rate of 2,500 shares per annum for the next five years. The shares of stock are to be delivered at the end of each year. The number of shares to be delivered during 1926, 1927, 1928 and 1929 is dependent upon the number of loading stations and elevators erected.

Taking the agreement in its entirety it occurs to me that the only obligation definitely assumed by the Oakland Terminal and Elevator Corporation is the furnishing of office space and keeping applicant's books for one year. All the other undertakings are conditional or are expressed in such general language that no liability would be attached if the elevator corporation disregarded the agreement. It seems to me that the main purpose of the agreement between the two companies is to assure to Oakland Terminal and Elevator Corporation through stock ownership the control of applicant corporation. In effect the Commission is asked to authorize the issue of common stock for control purposes. Such a request has never, nor will

it in this instance, be granted.

On the basis of the record in this proceeding, applicant should be able to sell both its common and preferred stock at par for cash. If the Oakland Terminal and Elevator Corporation desires to control applicant through stock ownership, it should pay cash for such of applicant's stock as it may desire to purchase.

The testimony does not show that applicant intends to or can build all of its proposed loading stations and elevators during the current year. Neither does the record justify the issue of stock to provide applicant with \$50,000. of working capital. The order herein will authorize the issue of \$200,000. of common or preferred stock or such amount of either common or preferred stock as applicant may determine, which, however, in the aggregate shall not exceed \$200,000. The order herein will permit applicant to expend an amount equal to twenty percent of the par value of the stock sold to pay commissions and expenses incident to the sale of the stock and to pay organization expenses. This is more than is usually allowed by the Commission for such purposes but is, I believe, justified by the facts in this case. In selling its stock applicant will not be permitted to accept notes for payments due on stock subscriptions. If applicant sells any of its stock on the installment payment plan, the payments made from time to time should be noted on the purchaser's subscription, which should at all times show the balance due.

I herewith submit the following form of order:

ORDER

The Public Utilities Storage Company having applied to

the Railroad Commission for permission to issue \$400,000. of preferred and \$375,000. of common stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured and paid for by the issue of \$200,000. of such stock is reasonably required and that this application insofar as it involves the issue of \$575,000. of stock should be dismissed without prejudice.

IT IS HEREBY ORDERED that the Public Utilities Storage Company be, and it is hereby, authorized to issue and sell for cash on or before November 30, 1926, at not less than par \$200,000. of its common or preferred stock or such amount of either common or preferred stock as applicant may determine, not exceeding in the aggregate, however, \$200,000. and use the proceeds for the following purposes:-

- a. To pay organization expenses, brokerage fees and commissions and other expenses incident to the sale of the stock - - - - - \$40,000.
- b. To construct loading stations and grain elevators and warehouses referred to in this application - - - - - 140,000.
- c. To provide an operating revolving fund - 20,000.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof and that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED that this application insofar as it involves the issue of \$575,000. of stock, and the same is hereby, dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 5<sup>th</sup> day of February, 1926.

W. B. Brundage  
Charles  
Ernest  
Leon  
Commissioners.