

LBM

Decision No. 21251 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
KITTRICK & HALL,)
for an order approving a note issued) Application No. 15673
for over one year.)

BY THE COMMISSION:

ORIGINAL

O P I N I O N

In the above entitled matter Kittrick & Hall, a corporation, has applied to the Railroad Commission for an order authorizing and approving the issue of a note in the principal amount of \$15,000., dated August 5, 1928, and due on or before August 31, 1931, with interest at the rate of seven percent per annum, secured by mortgage on warehouse properties.

It appears that applicant is a corporation engaged in business as a public warehouseman, chiefly for the storage of grain and rice, in Blavo, Chico, Durham, Esquon, Nelson and Shippee, in the Sacramento Valley. Its annual reports on file with the Commission show gross revenues for 1927 at \$46,933.07 and for 1928 at \$58,885.45, and net income, after deducting operating expenses, taxes and interest, for 1927 at \$6,651.18 and for 1928 at \$8,212.10.

The assets and liabilities, at the close of 1928, are reported as follows:-

ASSETS:

Fixed capital	\$101,825.82
Cash	1,310.69
Notes and accounts receivable	21,274.84
Materials and supplies	840.30
Miscellaneous assets	11,627.46
Total assets.....	<u>\$136,879.11</u>

LIABILITIES:

Common stock	\$ 10,000.00
Miscellaneous funded obligations	64,685.00
Notes payable	24,348.64
Accounts payable	22,087.07
Accruals	895.12
Corporate surplus	14,863.28
Total liabilities....	<u>\$136,879.11</u>

The application shows that on August 5, 1926 applicant purchased from De Pue Warehouse Company, for \$25,000.00, two warehouses situated in the Town of Durham and in financing the cost executed a mortgage and a one year seven percent note for \$10,000.00 to Bank of Italy, and a second mortgage and note for \$15,000.00 to De Pue Warehouse Company, payable with interest at the rate of seven percent per annum, in monthly installments of \$300.00 on the first day of each month commencing August 1, 1929, up to and including July 1, 1931, with a final installment of \$8,100.00 on August 31, 1931.

It appears that the indebtedness due Bank of Italy has been paid, but that the \$15,000.00 due De Pue Warehouse Company is outstanding. Applicant did not apply to this Commission for permission to execute the note and mortgage and in our opinion such instruments are void, because of the provisions of the Public Utilities

Act, which provide that a public utility warehouseman may not execute a note, or other evidence of indebtedness, payable more than twelve months after date of issue unless authorized to do so by this Commission, Applicant alleges, however, that it did not obtain permission from this Commission because it was unaware of the necessity of doing so. When the matter was called to its attention it filed the present application.

In making the application, however, applicant asks the Commission to approve the note issued on August 5, 1926. We do not believe, however, that we can approve void instruments, and accordingly will authorize the company to execute a note and mortgage to evidence and secure the indebtedness referred to herein. The copy of the mortgage filed with the Commission on June 12, 1929, seems to be in satisfactory form.

ORDER

Kitrick & Hall having applied to the Railroad Commission for an order approving a note, secured by mortgage, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary, and that it cannot approve the issue heretofore made, but that it should authorize applicant to execute a note and mortgage, and that such execution is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED as follows;-

(1) Kitrick & Hall, a corporation, may issue its promissory note in the principal amount of \$15,000.00, payable as indicated in the foregoing opinion, with interest at the rate of seven percent per

annum, for the purpose of paying or refunding the indebtedness due De Pue Warehouse Company.

(2) Kitrick & Hall may execute a mortgage substantially in the same form as that filed in this proceeding on June 12, 1929, for the purpose of securing the payment of the \$15,000.00 note, provided that such authority is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which it may be subject.

(3) Within thirty days after the issue of the note herein authorized, applicant shall advise the Commission of such issue.

(4) The authority herein granted will become effective when applicant has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five (\$25.00) Dollars.

DATED at San Francisco, California, this 18th day of June, 1929.

Frank L. Smith
C. L. Seaver
Leon A. Whittell
M. J. Blair

Commissioners.

Fee # 25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
JUN 20 1929
A. P. McPherson
Fee # 25 ⁰⁰/₁₀₀