

Decision No. 22443.

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 RAILROAD COMMISSION

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of E. L. Anderson, doing business under the name of Kismet Warehouse and Sharon Warehouse; J. C. Nohrnberg and J. R. Gibbs, a copartnership doing business under the name of Nohrnberg and Gibbs, Berenda Warehouse; C. N. Anderson, J. R. Gibbs and M. C. Phillips, a copartnership doing business under the name of Storey Warehouse Company; Conrad Shebelut, doing business under the name of Saunders Warehouse Co.; C. R. Shupe, doing business under the name of Shupe Warehouses; Rattlesnake Warehouse Company, a corporation; Talbot Warehouse Co., Inc., a corporation; through L. A. Bailey, their duly authorized agent, for an order establishing just, reasonable and uniform rates, rules and regulations.

Application
 No. 16436.

L. A. Bailey, for applicants.

BY THE COMMISSION:

O P I N I O N

This is an application by L. A. Bailey as agent for E. L. Anderson, operating two warehouses, one at Kismet under the fictitious name of the Kismet Warehouse, the other at Sharon under the fictitious name of the Sharon Warehouse; for J. C. Nohrnberg and J. R. Gibbs, a copartnership operating warehouses at Berenda under the fictitious name of Nohrnberg and Gibbs Berenda Warehouse; for C. N. Anderson, J. R. Gibbs and M. C. Phillips, a copartnership operating warehouses at Storey

under the fictitious name of Storey Warehouse Company; for Conrad Shebelut, operating a warehouse at Madera under the fictitious name of the Saunders Warehouse Company; for C. R. Shupe, operating warehouses at Trigo and Gregg under the fictitious name of Shupe Warehouses; for the Rattlesnake Warehouse Company, a corporation, operating a warehouse at Madera; and for the Talbot Warehouse Company, Incorporated, operating a warehouse at Talbot, for authority to readjust the rates applying to grain and to publish a consolidated warehouse tariff containing uniform rates, rules and regulations as set forth in Exhibit "B" attached to and made a part of the application.

A public hearing was held before Examiner Geary at Madera on April 30, 1930, and the application having been duly submitted is now ready for our opinion and order.

The annual reports for the year 1929 show that applicants operate 13 warehouses, all in Madera County on the east side of the San Joaquin Valley at stations Sharon to Gregg on the rails of the Atchison, Topeka and Santa Fe Railway, and at Berenda and Madera on the rails of the Southern Pacific Company.

The warehouses have a combined storage capacity of 129,840 square feet, and exhibits were introduced purporting to show a total operating revenue for the year 1929 of \$25,579.15, with operating expenses of \$31,261.90, a loss of \$5,682.75 for the group. Every warehouse by these exhibits claimed a loss except the one at Talbot, which showed a profit of \$366.81. Most of the applicants engage in other business activities, and the totals for operating expenses are more or less arbitrarily arrived at and were disputed by witnesses protesting the increases.

The proposed charge for a season of 12 months is \$1.75;

the present charge is \$1.45, resulting in an increase of 30 cents per ton. The increase for a 30-day period is 5 cents per ton, for a 60-day period 30 cents per ton and for a six month period 55 cents per ton. The season charges now in effect are at some points already higher than those uniformly assessed at approximately fifty warehouses in the adjacent counties of Merced and Fresno, and the proposed adjustment will further increase the disadvantage of the Madera County farmer.

There was testimony to the effect that the land in this Madera County district has during the past few years been diverted from the growing of grain to other crops, and since the warehouse buildings are equipped to handle grain only, the business has not been profitable on the reduced tonnage. Perhaps in this district there are now greater grain facilities than the tonnage justifies, also it appears probable that more modern warehouses capable of storing a diversity of commodities would solve the problem. Certainly the charges cannot continue to increase merely because of a diminishing tonnage.

Protestants also vigorously contended that the warehousemen operating in Madera County have in the past failed to surrender to the owners all of the grain placed in storage, the allegation being that when because of changes in the season and the grain absorbing moisture, increasing its weight by from 3 to 5 pounds per sack, some warehousemen would endeavor to retain this gain in weight and deliver to the storer only the actual number of pounds originally placed in the warehouses. No complainant however would under oath present any proof of this procedure. If the law has been violated in this respect, proper action will be taken by the Commission either in a formal or informal proceeding upon presentation of prima facie and sufficient confirmation of the facts.

It may be that the rates in Madera County are not proper, but upon this record it is not satisfactorily shown that the proposed rates would be reasonable per se or that they are fairly adjusted when compared with those assessed at the adjacent warehouses in Merced and Fresno Counties, where the per season charge is 25 cents per ton lower than proposed in this application. Applicants have not sustained the burden of satisfying this Commission that the proposed increases are justified. The application should be denied.

O R D E R

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact contained in the preceding opinion,

IT IS HEREBY ORDERED that the above-numbered application be and the same is hereby dismissed.

Dated at San Francisco, California, this 17th day of May, 1930.

Al. J. Jones
Frank J. Kelly

Paul S. Lott

M. A. Linn
Commissioners.