

ration said business and operative rights and the public utility property, consisting of both real and personal, described in Exhibit "F" filed in this proceeding. Exhibit "F" is a balance sheet dated September 1, 1931 and shows total assets of \$81,754.20 and liabilities and reserves of \$33,529.94.

The Los Angeles Warehousemen's Association has filed a petition of intervention in this matter in which it alleges that the Commission has no authority or jurisdiction to entertain this application, for the reason that said Fidelity Fireproof Storage was not operating as a public utility warehouseman in good faith on August 2, 1927 when Section 50-1/2 of the Public Utilities Act became effective. The Association asks that the application be dismissed.

The record shows that on July 27, 1927 F. R. Palmateer, proprietor of Fidelity Fireproof Storage, filed with the Commission a schedule of rates. On July 28, 1927 he was advised by the Commission that the tariff was not prepared in conformity with the requirements of the Commission. A revised tariff was filed on August 15, 1927, which carries the notation "Effective July 29, 1927." The annual report filed for the year 1927 and the annual report for 1928 show no revenue from public utility business. The 1929 annual report shows operating revenue of \$198.00 and the annual report for 1930, operating revenue of \$306.00. The testimony of R. F. Palmateer is to the effect that the \$198.00 was obtained from storing theater chairs and the \$306.00 from storing silica. His testimony further shows that some new automobile tires and automobile equipment were stored in 1920, at which time no rates were on file with the Commission. There is nothing in the record to show the extent of the public utility storage business, if any, from 1920 to 1929. He also testified that

this Commission had granted Fidelity Fireproof Storage a certificate to operate a public utility warehouse. His statement is evidently based on some misunderstanding, for there is no decision granting such a certificate. If it, or F. R. Palmateer, has a right to conduct a public utility warehouse business, it is by virtue of the fact of having actually operated in good faith at the time Section 50-1/2 of the Public Utilities Act became effective under tariffs and schedules lawfully on file with the Railroad Commission. From the record in this proceeding we can make no finding that such is the case. We therefore believe that this application should be denied without prejudice.

O R D E R

Frank R. Palmateer and Robert E. Palmateer, co-partners doing business under the name of Fidelity Fireproof Storage and/or Fidelity Van and Storage Company, having asked permission to sell their warehouse properties to Fidelity Depositories, Ltd., a corporation, a public hearing having been held before Examiner Fankhauser, the Commission having considered the evidence submitted at such hearing and being of the opinion that the record in this proceeding does not warrant the Commission to enter an order authorizing the transfer of said properties, therefore,

IT IS HEREBY ORDERED, that this application be, and the same is hereby, denied without prejudice.

DATED at San Francisco, California, this 14th day of March, 1932.

C. C. ...
Leon ...
W. H. ...
M. B. ...
John G. ...
Commissioners.