

Decision No. 28135

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of  
F.F. SMITH AND CO., a corporation,  
and HUGH L. SCRUTTON, an individ-  
ual, for an order authorizing said  
corporation to lease to the said in-  
dividual all of its grain storage bus-  
iness and that part of its plant,  
equipment, tools, etc., incident there-  
to, situate in Sacramento, California.

Application No. 20056.

By The Commission:

OPINION

In this proceeding F.F. Smith and Co., a California corporation, has applied to the Railroad Commission for permission to lease to Hugh L. Scrutton its public utility warehouse business and properties pursuant to the terms and conditions of the lease agreement, dated June 20, 1935, and filed with the application as Exhibit "B".

It appears that F.F. Smith and Co. is engaged, among other things, in the business of selling feed, grain and seeds, and incidentally thereto in the public utility warehouse business in the City of Sacramento. Its utility affairs have constituted but a small part of its total operations, the application showing, for the last three years, average annual revenues from the warehouse business of \$1,289.51 as compared with average annual revenues from all sources of \$80,815.69. For the calendar year 1934 the total revenue was reported at \$95,395.49 and the utility revenue at \$1,184.63.

In order to separate the two classes of business the corporation now proposes to lease to Hugh L. Scrutton, its vice-president, for a period of three years, all of its storage business and that part of its plant, equipment and other properties/<sup>necessary</sup> or convenient for the conduct of the business, with the understanding and agreement that the service now being conducted shall hereafter be maintained and that the lessee shall continue to operate under the present rates, unless authority to change them is received from the Commission. Under the terms of the lease the lessee agrees to pay as rent all the net profits resulting from the

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conduct and operation of the warehouse business, it being provided that in the event such business is conducted at a loss, such loss will be borne by the lessor.

Inasmuch as the lessee will assume all the public obligations of the lessor and will continue to operate without change under the same rates and regulations now in effect, it would appear that the public will not be adversely affected.

ORDER

Application having been made to the Railroad Commission for an order authorizing the execution of a lease, and the Commission having considered the request and being of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted,

IT IS HEREBY ORDERED that F.F.Smith and Co. and Hugh L. Scrutton be and they hereby are authorized to execute a lease similar in form to that filed in this proceeding as Exhibit "B".

IT IS HEREBY FURTHER ORDERED that within thirty days after the execution of said lease applicants shall join in common supplement to the tariffs now on file with the Commission in the name of F.F.Smith and Co., said F.F.Smith and Co. on the one hand withdrawing and Hugh L. Scrutton on the other hand adopting as his own said tariffs and all effective supplements thereto.

Dated at San Francisco, California, this 23<sup>rd</sup> day of July, 1935.

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M. B. Harris  
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Frank R. Denny  
Commissioners.