

Decision No. 32013

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
FRANKIE G. FISHER and
ROBERT M. UPTON,
for authorization to sell warehouse.

Application No. 22720

ORIGINAL

BY THE COMMISSION:

O P I N I O N A N D O R D E R

W. H. Fisher, deceased, has from 1912 to April 15, 1939 operated a public utility warehouse, situate in the City of Red Bluff, such warehouse being known as "Fisher's Warehouse". A few days prior to his death, which occurred April 15, 1939, said W. H. Fisher conveyed his warehouse properties to Frankie G. Fisher, his wife.

It is of record that said Frankie G. Fisher is unable to conduct said warehouse business. She therefore has entered into a tentative agreement, a copy of which is on file in this proceeding, to sell said warehouse properties to Robert M. Upton for the sum of \$1000.00. The properties consist of scales, trucks, pilers, tools, a lease-hold interest in the warehouse building and the good will of the warehouse business. The warehouse building is owned by the Southern Pacific Company or the Central Pacific Railway Company.

Robert M. Upton asks that the Commission declare, that public convenience and necessity require, and will require him to operate and conduct said warehouse business. Section 50½ of the Public Utilities Act reads in part as follows:

"No warehouseman shall hereafter begin to operate any business of a warehouseman, as defined in section 2½ of this act, in any incorporated city, or city and county of this state having a population of one hundred fifty thousand or more, without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require or will require the transaction of business by such warehouseman,...etc."

Inasmuch as the City of Red Bluff has a population of less than one hundred fifty thousand (150,000), Robert M. Upton may conduct a warehouse business in said City of Red Bluff without first having ob-

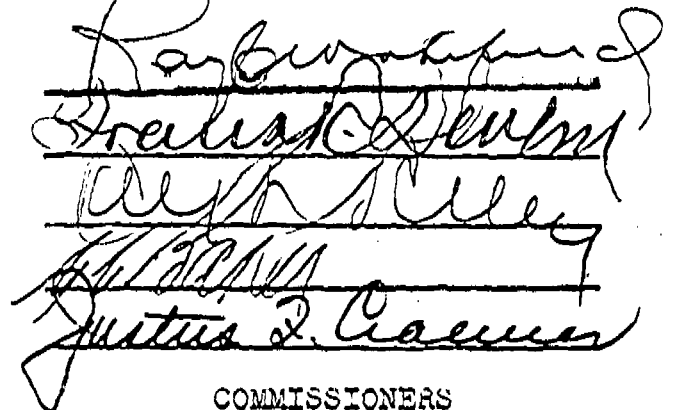
tained from the Railroad Commission a certificate of public convenience and necessity authorizing him to engage in such business. He should, of course, and this decision will require him to do so, adopt, prior to the beginning of warehouse operations, the tariff now on file with the Commission in the name of W. H. Fisher.

The Commission has considered the request of applicants, and is of the opinion that this is not a matter in which a hearing is necessary and that this application should be granted, therefore,

IT IS HEREBY ORDERED, that Frankie G. Fisher may, on or before August 1, 1939, sell her right, title and interest in the warehouse properties referred to in this opinion and order and more particularly described in the "contract of sale" filed in this proceeding, to Robert M. Upton, who may acquire and operate said warehouse properties, provided that said Frankie G. Fisher and Robert M. Upton join in common supplement to the warehouse tariff on file with the Railroad Commission in the name of W. H. Fisher, said Frankie G. Fisher on the one hand withdrawing and said Robert M. Upton on the other hand adopting and establishing as his own such tariff.

IT IS HEREBY FURTHER ORDERED, that within thirty (30) days after the transfer of the properties herein authorized to be transferred, Robert M. Upton shall file with the Railroad Commission a copy of the instrument of conveyance by which he acquires and holds title to said properties.

DATED at San Francisco, California this 23rd day of May, 1939.



Justus J. Coe
COMMISSIONERS