

Decision No. 33720

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of San Joaquin Compress and Ware-)
house Company, a corporation, for)
a certificate of public convenience.)

ORIGINAL
Application No. 23525

BY THE COMMISSION:

Appearances

T. N. Harvey and L. E. Stewart, for applicant,
C. G. Munson, for Los Angeles Warehousemen's
Association, protestant.
C. H. Smith, for Davies Warehouse Company, in-
terested party.

OPINION ON REHEARING

In the above entitled application San Joaquin Compress and Warehouse Company seeks a certificate of public convenience and necessity authorizing it to operate as a "warehouseman" in the City of Los Angeles. This opinion is based upon evidence adduced at a rehearing had at Los Angeles on October 24, 1940, before Examiner Bryant.¹ Permission to file briefs within twenty days from the date of rehearing was granted, but only applicant took advantage thereof. The matter is now ready for decision.

¹ After the initial hearing in this proceeding and upon the basis of the record made thereat, the Commission issued Decision No. 33501 of September 17, 1940, finding that evidence relating to the public need for the proposed service was at least contradictory and that for approximately three years applicant had been conducting, apparently unlawfully, a warehouse business seemingly the same as that for which a certificate is sought herein. Thereafter, applicant was granted a rehearing upon its representations that it was prepared to submit additional evidence with respect to public convenience and necessity for the proposed service and with respect to the character of its past operations.

The proposed operation is limited to the storage of cotton. Applicant originally sought authority to store this commodity in bales regardless of density, but subsequently amended its proposal by restricting the application to so-called "high density" cotton, that is, cotton in bales compressed to 32 pounds or more per cubic foot. The premises in which the cotton is proposed to be stored are designated as Municipal Warehouses Nos. 1 and 2 and Berths 59 and 60. They are leased from the Harbor Department of the City of Los Angeles and are situated on the City's waterfront. The prospective storage involves cotton grown in the San Joaquin Valley in the vicinity of Bakersfield, processed near point of growth and forwarded to Los Angeles Harbor for reshipment by vessel. It was explained that the gins and compresses maintained for the processing of the cotton produced in the Bakersfield area were so located that these facilities could be utilized with a minimum of transportation expense while the cotton was being conveyed from point of growth to Los Angeles Harbor.

Witnesses for the applicant testified that disturbed world conditions had disrupted the export market for cotton and had seriously depressed market prices. This situation, they said, would result in abnormal storage requirements in connection with the marketing of this year's crop. They estimated that at least 70 per cent of the cotton so stored would be handled under loans from Commodity Credit Corporation, an agency of the federal government. According to the witnesses, the terms of these loans would require storage of the cotton by public utility warehousemen who demonstrate their financial responsibility to the corporation and show that their warehouse structures meet construction standards laid down by it. The basic rates which would be used for deter-

mining the amounts of the loans were said to be higher at seaboard than at interior points, the Los Angeles Harbor rate being 9.8 cents per pound and the Bakersfield rate being 9.65 cents per pound.²

The California Cotton Cooperative Association representing some 850 growers located in the Bakersfield district supported the granting of the application. Its general manager claimed that these members would suffer severe losses if adequate public utility storage facilities were not made available at Los Angeles Harbor. He explained that public storage in the Bakersfield area was and would not be available due to the lack of sufficient space occasioned by the abnormal amount of cotton in storage and to be placed in storage. He said that, in any event, storage at Los Angeles Harbor would be more advantageous to the growers because, in addition to the greater loan value of cotton stored at that point, the climate at tidewater would tend to maintain the cotton in its original condition and thus preserve its full value, and the proximity to docks used by ocean going vessels would enable the growers to meet the demand for rush shipments which were being anticipated because of the spasmodic cotton market.

Applicant's general manager testified that its Bakersfield warehouse was filled to capacity; that there appeared to be no immediate prospect of release of space; and that no suitable storage facilities were or would be available in the Bakersfield area. He estimated that 75,000 to 80,000 bales of high density cotton to be held as security for Commodity Credit Corporation loans would be offered to his company for storage, and in-

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It was represented that the cotton would be graded according to its type and quality and the loan rates determined therefrom, and from the basic rates dependent upon the point of storage.

licated it was probable that a large part of this cotton would be compressed at the company's Bakersfield facilities, provided it would be able to supply suitable storage. The witness stated that both his company's existing warehouse at Bakersfield and its proposed warehouse at Los Angeles Harbor had been approved by the lending agency. He also stated that only one other Los Angeles Harbor warehouse had been approved, and that at the beginning of the season it had space available for but from 15,000 to 30,000 bales. Because of the common ownership of the compress and the proposed warehouse business, he said, the classification and identity of each bale compressed by the applicant would be maintained at the Los Angeles Harbor warehouse without the growers incurring the additional expense and loss of weight incident to the changing of warehouse collateral and to the drawing of additional samples which would result from the storage of the cotton by a public utility warehouseman who had not furnished the compressing service.³ The witness also said that his company proposed to handle the cotton held as security for loans under contract with the lending agency at rates specified by that agency for nationwide application; and to handle such other cotton as might be stored at the uniform rates which warehouse tariffs applying at Bakersfield and Los Angeles Harbor provided. In regard to past operations, the witness said that his company had acted as the agent of the American Cotton Cooperative Association, a nonprofit organization,

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A warehouseman storing cotton held as security for Commodity Credit Corporation loans was said to be required to certify to the classification thereof regardless of certification by a warehouseman previously storing the cotton, and to be responsible for error therein. Change of a warehouseman following obtaining of a loan by a grower was represented as involving surrender of a new warehouse receipt as collateral and the issuance of new weight sheets and other required documents.

and only in that capacity had been engaged in Los Angeles Harbor storage. This storage, he said, was limited to cotton stored for members of the association and had been discontinued.⁴

Los Angeles Warehousemen's Association withdrew its protest to the granting of the application upon the amendment thereof restricting the sought authority to the storage of high density cotton. As the matter now stands the issuance of the certificate of public convenience and necessity prayed for is unopposed.

From the record on rehearing it is clear that the granting of authority to store 30,000 bales of high density cotton at Los Angeles Harbor is necessary to supply the public with adequate and suitable public utility storage for this commodity for the duration of the abnormal conditions surrounding its marketing. The need for this storage under normal conditions, however, is not apparent on this record. The application will be granted on a temporary basis to the extent indicated. In regard to the duration of the authority it is evident that the period during which abnormal conditions may prevail cannot now be ascertained. The certificate of public convenience and necessity will, therefore, be made to expire December 31, 1941, unless sooner cancelled, changed or extended by appropriate order of the Commission. Applicant will be expected to inform the Commission promptly when cancellation, change or extension becomes necessary.

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Section 2½ of the Public Utilities Act exempts warehouses conducted by nonprofit, cooperative associations or corporations which are engaged in the handling or marketing of the agricultural products of their members, and warehouses conducted by the agents of such associations or corporations, from the provisions of the Act affecting public utility warehousemen. Apparently the operations of this applicant as agent for the association were conducted under the exemption.

O R D E R

San Joaquin Compress and Warehouse Company, a corporation, having made application as above entitled, public hearings having been held, evidence received, the matter submitted, and the Commission being now fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require that San Joaquin Compress and Warehouse Company, a corporation, establish and operate on a temporary basis a warehouse business at Los Angeles Harbor in the City of Los Angeles, said business to be restricted to the storage of not more than 80,000 bales of high density cotton (compressed to 32 pounds or more per cubic foot); and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and it is hereby granted to said San Joaquin Compress and Warehouse Company, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall fail to file a written acceptance of the certificate herein granted within twenty (20) days from the date hereof.
2. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the effective date of this order on not less than three (3) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Order No. 61 and containing rates, rules and regulations which shall be identical with those proposed, or rates, rules and regulations satisfactory to the Commission; and prior to commence-

ment of storage under contract under rates, rules and regulations deviating from the rates, rules and regulations provided by the tariff or tariffs so filed, applicant shall file a copy of each such contract in accordance with the requirements of the Commission's General Order No. 78.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has been obtained.

4. The rights and privileges herein authorized shall expire on December 31, 1941, unless sooner cancelled, changed or extended by appropriate order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 10th day of December, 1940.

Ray L. Riley
Frank D. Smith
W. B. Baker
Justin J. Coe
Commissioners.