

Decision No. 35233

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
SACRAMENTO VALLEY WAREHOUSEMEN'S ASSO-)
CIATION and the CALIFORNIA WAREHOUSE-)
MEN'S ASSOCIATION in behalf of BUTTE)
COUNTY WAREHOUSE CO., a corporation;)
HASLETT WAREHOUSE COMPANY, a corporation;)
LINCOLN GRAIN GROWERS, INC., a corpora-)
tion; NORTHERN CALIFORNIA WAREHOUSE CO.,)
a corporation; OLD PIONEER MILL &)
WAREHOUSE CO., a corporation; PLANT)
WAREHOUSES, INC., a corporation; SAC-)
RAMENTO RIVER WAREHOUSE CO., a corpora-)
tion; TARKE WAREHOUSE CO., a corpora-)
tion; ARTHUR F. and JENNIE D. JAUCH,)
doing business as ELK GROVE MILLING CO.,)
MRS. GORGE D. COOPER and MRS. E. E.)
ELY, doing business as ELY'S WAREHOUSE;)
S. S. HINAMAN and G. H. McLEAN, doing)
business as GRIDLEY WAREHOUSES; J. P.)
HORNALL and L. P. HENIGAN, doing busi-)
ness as ROBBINS WAREHOUSE CO.; J. C.)
HORNALL, doing business as ARBUCKLE)
and COLLEGE CITY WAREHOUSES; EDWIN H.)
ROBINSON, doing business as BRETONA)
WAREHOUSE; J. G. BRATTON, doing busi-)
ness as HARRY A. BROWN CO.; HARRY E.)
CURTIS, doing business as CURTIS WARE-)
HOUSE; ELVA DePUE MATTHEWS, doing busi-)
ness as DE PUE WAREHOUSE COMPANY;)
R. DONNELL, doing business as DONNELL)
GRAIN & WAREHOUSE CO.; H. E. SAVAGE,)
doing business as DOTY BRICK WAREHOUSE)
and RICETON WAREHOUSE; WARD HUNT, doing)
business as DUNNIGAN WAREHOUSE; EUGENE)
J. METZGER, doing business as FARMERS)
WAREHOUSE (Zamora); P. J. and GLENN J.)
HIATT, doing business as HIATT and HIATT;)
Z. L. PARTIAN, doing business as HUSTON)
WAREHOUSE; W. K. JANSEN, doing business)
as WALTER JANSEN & SON; GEORGE E.)
JEFFERY, doing business as JEFFERY'S)
MILL & WAREHOUSE; F. L. JUNEX, doing)
business as JUNEX WAREHOUSE; MAURICE)
STRAIN, doing business as STRAIN'S)
PUBLIC WAREHOUSE; NETTIE B. SUBLETTE,)
doing business as TREMONT WAREHOUSE;)
DELLA SCHIMMEL, doing business as TUDOR)
WAREHOUSE; C. F. QUIGGLE, doing business)
as VALLEY WAREHOUSE COMPANY; T. E. BROWN,)
doing business as WOODLAND WAREHOUSES; and)
L. H. CUMMINS; CHARLES PUGSLEY; R. A.)
RENAUD; and C. L. WOLCOTT; for an order)
establishing just and reasonable minimum)
rates and standard rules and regulations,)
through L. A. BAILEY, their duly author-)
ized warehouse tariff agent.)

Application No. 23608

SACRAMENTO VALLEY WAREHOUSEMEN'S ASSOCIATION)
and CALIFORNIA WAREHOUSEMEN'S ASSOCIATION)

COMPLAINANTS

vs.

CATLETT WAREHOUSE CO., a corporation; CONA-
WAY RANCH, a corporation; FARMER'S TRANS-
PORTATION CO., a corporation; GRANGER'S
BUSINESS ASSOCIATION OF DIXON, a corporation;
GROWERS MILLING & ELEVATOR CO., a corporation;
MADISON WAREHOUSE CO., a corporation; TYNDALL
WAREHOUSE CO., INC., a corporation; WILLIAMS
CO-OPERATIVE WAREHOUSE ASSOCIATION, a corpora-
tion; O. R. POWELL and J. M. HAMPTON, doing
business as LIVE OAKS WAREHOUSES; J. G. MAST,
MRS. G. MAST, C. S. MAST, JOE MAST and ANNIE
MAST, doing business as MAST BROS. IRON WARE-
HOUSE; L. S. PRITCHARD and R. B. PIERCE,
doing business as PEOPLES WAREHOUSE; J. E.
SULLIVAN and A. C. P. LARSEN, doing business
as SULLIVAN & LARSEN; H. I. BOBB and D. P.
TRAYNHAM, doing business as UNION STORAGE
CO.; C. ORENGO, doing business as CAPAY
WAREHOUSE ASSOCIATION; T. E. TADLOCK, doing
business as CITRONA WAREHOUSE; J. H. PRIEL,
doing business as CONSUMERS FUEL & STORAGE
CO.; L. H. AYERS (Lessee), doing business
as COUNTY LINE WAREHOUSE; H. E. RICHTER and
JOHN DOE RICHTER, doing business as RICHTER
BROS. OR DUFOUR WAREHOUSE; B. L. FOUCH,
doing business as FARMERS WAREHOUSE (of
Williams); A. T. SPENCER, doing business as
GERBER WAREHOUSE; J. L. BROWNING, doing
business as GRAND ISLAND WAREHOUSE; H. R.
KINGSBURY, doing business as HONCUT WARE-
HOUSE; HAROLD W. HOOBLER, doing business as
HOOBLER WAREHOUSE CO.; WILLIAM BUCHOLZ,
doing business as MARYSVILLE WAREHOUSE; J. L.
CIANELLA, doing business as NORD WAREHOUSE
CO.; R. A. Harelson, doing business as
NORTHERN STAR MILLS; H. K. WILLARD, doing
business as RED BLUFF FLOUR MILLS; WILLIAM
DOLD, doing business as SIXTEENTH STREET
PUBLIC BEAN AND GRAIN CLEANER WAREHOUSE;
WILLIAM CRAWFORD, doing business as WOODLAND
RICE MILLING CO.; CHRISTIAN BLAKEMORE;
FARMER'S WAREHOUSE, ELMIRA; MACY & CO.; and
C. B. HARTER.

Case No. 4544

DEFENDANTS

BAKER, COMMISSIONER:

OPINION ON REHEARING

By Decision No. 34344 of June 24, 1941, the Commission denied Application No. 23608 whereby the Sacramento Valley Warehousemen's Association and the California Warehousemen's Association (hereinafter termed the Associations) on behalf of their members, public utility warehouse operators in the Sacramento Valley, sought authority to increase rates for the storage and handling of certain farm commodities, and to standardize rules, regulations and incidental service charges. Decision No. 34344, supra, also dismissed the Associations' complaint, Case No. 4544, requesting the Commission to require defendant warehousemen in the Sacramento Valley to establish rates, rules and regulations of the same volume and effect as those sought by applicants. Thereafter, pursuant to a petition, the Associations were granted a rehearing so that they might furnish additional evidence.¹ The rehearing was had on March 23, 1942, at San Francisco.

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During the course of the original hearings in these proceedings changes were made in the status of certain of the warehousemen originally shown as applicants and defendants. These changes are noted in Decision No. 34344, supra. At the rehearing Application No. 23608 was further amended by removing H. E. Savage, doing business as Doty Brick Warehouse and Riceton Warehouse; and R. A. Renaud from the list of applicants and adding thereto H. E. Savage, Leon Brink and H. S. Brink, Jr., doing business as Doty Brick Warehouse and Riceton Warehouse, J. E. Nelson & Sons; Farmers Transportation Company; Sixteenth Street Public Bean and Grain Cleaner Warehouse; Farmers Warehouse of Williams; Williams Co-operative Warehouse Association; Marysville Warehouse; Northern Star Mills; and Woodland Rice Company (formerly Woodland Rice Mills). Case No. 4544 was amended further by removing from the list of defendants therein Farmers Warehouse, Elmira; L. H. Ayers, lessee doing business as County Line Warehouse; Woodland Rice Milling Co.; Sixteenth Street Public Bean and Grain Cleaner Warehouse; Farmers Warehouse of Williams; Williams Co-operative Warehouse Association; Marysville Warehouse; and Northern Star Mills; and by adding G. E. Youngmark, lessee doing business as County Line Warehouse.

Before discussing the evidence adduced at the rehearing it appears necessary to review briefly the allegations and showing made by applicants and defendants at the previous hearings and the findings and conclusions reached by the Commission.

At the original hearings applicants sought increased rates on paddy rice, nuts, alfalfa meal, wool, dried fruits and seeds. Evidence of record, however, dealt almost exclusively with grain and paddy² rice.

Applicants alleged that under their present rates the warehousemen involved in these proceedings were not receiving a fair rate of return and that the majority of them were operating at an out-of-pocket loss; that the same conditions existed with defendant warehousemen; that defendants' need for increased revenue was as great as applicants'; and that for these reasons and because of competition assertedly existing between warehousemen in the Sacramento Valley it was necessary that defendants' rates, charges, rules and regulations be increased to the same level. Applicants requested that their prayer for increased rates be denied unless defendants were required to increase their rates accordingly.

Applicants contended that the proposed rates were designed to yield revenues which would return to the utilities their cost of doing business and afford them an opportunity to earn a small return upon their investment.

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Of the commodities mentioned those principally stored are grain and paddy rice. For convenience paddy rice will hereinafter be referred to as "rice." With some exceptions the present rate on grain is \$1.25 and on rice \$1.50. The rates sought are \$1.50 on grain and \$1.75 on rice. Rates are season storage rates, stated in dollars and cents per ton of 2,000 pounds. The proposed rates include the services of receiving, weighing in, piling and delivery. The rates on rice include the additional service of weighing out. Unless otherwise shown, the season storage rates on grain cover the storage period from June 1 to the following May 31, and on rice the period from September 1 to the following August 31. The present rates generally include similar services and storage periods.

To support the allegation that the majority of the public utility warehousemen were conducting their operations at an out-of-pocket loss applicants relied strongly upon exhibits compiled from the annual reports of the individual warehousemen. The 1938 and 1939 annual figures shown in the exhibits indicated operating losses of \$70,000 per annum.³ The Commission found these exhibits to have little probative value because it was shown from the testimony of both applicant and defendant warehousemen that, with few exceptions, they engaged in both utility warehouse and nonutility warehouse operations and that their annual reports were either unsegregated or only partly segregated as between utility and nonutility operations. In addition, these reports were frequently found to contain estimated and arbitrary expense items.

Based on the testimony of individual warehousemen supplementing and explaining these annual reports, and on the reports considered in the light of such testimony, it was found that one group of warehousemen was either operating at a loss or at a profit which was wholly inadequate; that another group was earning a substantial profit and that as to a considerable number, their showing was either so incomplete or so contradictory as to make it impossible to determine their financial condition. The Commission found the record far from convincing that the increases proposed were justified for the warehousemen as a group.

At the rehearing, an engineer retained by the Associations testified regarding a study he had made of the financial condition of applicant and defendant warehousemen. He stated that from his invest-

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The alleged financial distress of the Sacramento Valley warehousemen was attributed to the fact that they assertedly had, since 1933, experienced steadily increasing costs of doing business, without corresponding increases in storage rates.

igation of the operations and books of a representative cross-section of the warehousemen involved, he had found their annual reports generally unreliable and incomplete as a source from which to develop reliable cost data for use in determining a fair rate on grain and rice. He further stated that the records of the warehouse industry as a whole were incomplete and fragmentary.

With respect to the annual reports, the witness testified that where warehousemen engage in both utility warehouse and other operations, the utility operations are either unsegregated or improperly segregated from the nonutility operations.⁴ He stated that where segregations are made, the utility capital, revenue and expense accounts usually reflect the rough estimates or guesses of the warehousemen. He further stated that the reports of warehousemen engaged solely in public utility operations are often defective.⁵

The witness explained that because of the incomplete and fragmentary records, the unreliable annual reports, and the great difficulty which he assertedly would have experienced in analyzing and readjusting the operating statistics of each warehouseman involved in these proceedings, he had prepared studies intended to portray a conservative picture of the capital investment, operating expenses and financial condition of the Sacramento Valley warehouse operators as a group.

For his study the witness selected warehouses of five and ten thousand-ton capacity.⁶ The study developed capitalization figures based on

⁴ The record shows that a majority of the warehousemen involved in these proceedings are engaged in both utility and nonutility operations.

⁵ In many instances the warehouse owner or operator is said to make no charge for his services, for the use of his car, for his personal expenses or for the time his wife or daughter spends in keeping the books and staying in the office during his absence. Often owners of smaller warehouses are said to handle grain as laborers without making a charge therefor.

⁶ He said that 46 per cent of the total number of warehousemen involved have a storage capacity of 5,000 tons or less; that 21 per cent have a storage capacity of between 5,000 and 10,000 tons; and that the remaining 33 per cent have capacities of over 10,000 tons.

historical costs, and per annum operating costs which would be experienced in handling and storing grain and rice and maintaining the warehouse. The following costs in dollars and cents per ton were shown and are compared with the proposed rates:

<u>Warehouse Capacity</u>	<u>Warehouse 100% Filled</u>	<u>Warehouse 60% Filled</u>	<u>Proposed Rates</u>	
			<u>Grain</u>	<u>Rice</u>
5,000 tons	1.71	2.29	1.50	1.75
10,000 tons	1.37	1.89	1.50	1.75

Referring to these costs, the witness stated that at the present rate of \$1.25 per ton neither the 5,000 nor 10,000-ton warehouse can be operated at a profit; that with a rate of \$1.50 on rice the 5,000-ton warehouse cannot be operated at a profit; and that in order to earn a profit of 6 per cent a warehouseman would have to operate a 10,000-ton warehouse, store no grain but only rice and have it filled to capacity, a condition which the record indicates may not reasonably be expected. The cost of operating warehouse facilities of less than 5,000 tons was said to be higher than that shown for the 5,000-ton warehouse operation. The witness added that warehouses of warehousemen operating in excess of 10,000 tons of storage space are generally in scattered locations and that their operations probably cannot be carried on much cheaper than are smaller operations.

He declared that figures used in developing this study were based upon data and information secured from actual warehouse operations in the Sacramento Valley, and that both as to capital and operating expenses he had used the low rather than the high figures. For example, he said that although warehousemen almost without exception

⁷ This rate of return was predicated on the 1940 corporation tax scale. The witness stated that this tax scale increased in 1941 and that in 1942 the scale would be still higher.

⁸ The increased cost of supervision and labor in conducting operations in different warehouses at different locations, he said, will tend to offset the savings customarily experienced in larger operations which permit overhead costs to be spread over the larger operation.

estimate their warehouse labor cost to be 50 cents per ton, he used a cost of 40 cents a ton. Actual checks made in 1940 and 1941 by three separate warehousemen, he said, revealed costs of $38\frac{1}{2}$ cents, $40\frac{1}{2}$ cents and $44\frac{1}{2}$ cents per ton, respectively.

To further substantiate the contention that the costs developed in his study were predicated upon conservative figures, the witness, for comparative purposes, made a study of the 1941 costs experienced by Mr. T. E. Brown, doing business as Woodland Warehouses, whose warehouses have a capacity of approximately 20,000 tons. According to the study, the cost of Brown's operations was \$1.42 per ton, as compared to the cost of \$1.37 per ton developed as representative for a 10,000-ton warehouse when filled to capacity. The witness emphasized that because Brown's warehouse facilities are double the size of the 10,000-ton warehouse upon which the cost of \$1.37 per ton was predicated, Brown's costs would be expected to be less, due to the fact that his overhead costs are spread over a larger volume.

The Associations' engineer stated that in determining a proper rate it would be unfair to the small warehousemen to base rates on the costs of the larger warehouse operators because the small warehousemen experience higher operating costs, and that, for the same reason, it would be unfair to the farmers to base rates on the costs of the small warehouse operators. He further stated that rates cannot be based on the assumption that the warehouse will be full for the reasons that the warehouse industry must provide space to take care of crops during a bumper year, which may occur only once in ten years or so; that during normal storage years the average warehouseman has idle space; and that in years when crops fall below their normal expectation, the idle space will be greater. It was pointed out that when a warehouseman experiences a subnormal year his gross revenue falls to a greater extent than his operating expenses. The engineer's

study revealed that while revenues which a warehouseman would receive when his warehouse is 60 per cent occupied will decline 40 per cent from those received if the warehouse is full, his operating expenses will only decrease about 20 per cent. In addition, the engineer pointed to the difference between the storage rate on grain and rice and emphasized that warehousemen may not pick and choose the commodities they store. For these reasons he contended that the rates should be made on the assumption that at times the individual warehouse operators will have in their warehouses only the commodity which pays the lowest rate.

This witness expressed the opinion that a warehouse business in order to offer any inducement to investors or to keep present investors must earn a rate of return considerably higher than that now considered fair for gas and electric utilities. This is necessary, he contended, because the warehouse business is much more hazardous. He explained that while gas and electric utilities are protected from competition, country warehousemen are not; that the gas and electric utilities are continuously growing, whereas the warehouse business in the Sacramento Valley is static, if not actually on the decline; that while the former utilities enjoy gross revenues which are stable a warehouseman's gross revenue can very easily fluctuate 50 per cent in two consecutive years; that an investor in gas and electric utilities can get his money out at any time, whereas an investor in warehouse property has no open market and may find his assets frozen for a long time; and that contrary to the investor in gas and electric utilities the investor in a warehouse business has all his eggs in one basket and must depend for his revenue solely on farmers in his neighborhood.

The Associations' engineer also testified regarding the operations of De Pue Warehouse Company, Gridley Warehouses and Williams Co-operative Warehouse Association because in Decision No. 34344, supra,

it is indicated that they received rates or return in excess of 7 per cent in 1938 and/or 1939.

The engineer stated that his study of De Pue Warehouse Company's operations revealed that the returns indicated by its annual reports were too high for the primary reason that they were assertedly predicated upon an improper rate base. He explained that the rate base used assumed the property to be only one quarter as good as new; that under the company's present depreciation rate the buildings will be totally depreciated and disappear from the rate base in about 13 years; that with proper maintenance they will be just as useful and valuable 13 years from now as at the present time; and that they are just as useful and valuable now as they were 10 years ago. Contending that the average public utility gas and electric property is generally found to be in about 70 per cent condition, he expressed the opinion that it was hard to conceive of properties being in an operating condition of less than 50 per cent. He said that, using a rate base 50 per cent depreciated, the rate of return in 1940 would be 5½ per cent, and in 1938, 1939 and 1941 lower, in accordance with the percentage relationships hereinbefore stated.

The public utility operations of G. H. McLean, doing business as Gridley Warehouses, the witness said were, according to the annual reports, mainly nonutility. He explained that for this reason and because of the general unreliability of the annual reports of the warehousemen involved, he had not made an attempt to analyze this operation.

⁹ The witness testified that the warehouseman's operations for the years 1938, 1939, 1940 and 1941 were studied; that this warehouseman handled most tonnage in 1940; and that it was the warehouseman's best year of this four-year period. Using 1940 as the standard (100 per cent) the performance comparison for 1938 was said to be 97.2 per cent; for 1939, 71.5 per cent; and for 1941, 63 per cent.

With regard to Williams Co-operative Warehouse Association, the witness testified that its manager assists in the grain handling operation without charging for his time, for the use of his car, or for office expenses in excess of actual cost of supplies. Commencing January 1, 1942, the manager is charging the business \$1,800 a year for these services. According to the witness the adjusted figures to cover this expense in 1938, 1939 and 1940, would produce a rate of return of 5 per cent in 1938 and losses of \$379 and \$391 in 1939 and 1940, respectively.

This witness also amplified the record upon which Decision No. 34344, supra, was based with respect to the showing made by applicant Ward Hunt, doing business as Dunnigan Warehouse. ¹⁰ This warehouseman's charge for depreciation, he declared, was insufficient in 1938 and 1939 and that in 1940 no depreciation charge was made. Moreover, he stated that during these three years Mr. Hunt performed manual warehouse labor and other services without making a charge for them. For his services, the witness said, the warehouseman is now charging the business \$1,800 a year. Adjustments made for this charge alone produce an actual out-of-pocket loss during all three years.

A witness, familiar with present warehouse conditions in California and throughout the United States and with conditions as they existed for many years previous, testified that the warehouse industry in the Sacramento Valley is in a very unstabilized condi-

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The Commission stated in Decision No. 34344, supra, that this warehouseman's annual reports for 1938 and 1939, when considered in the light of his testimony and adjusted to remove the items of interest and depreciation which were improperly shown as operating expenses, reflect a profit of \$1,455.20 in 1938 and loss of \$73.23 in 1939.

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tion. This, he attributed to storage rates which are so low in comparison to the costs of handling the commodities under increased labor costs that the warehousemen are unable to maintain their property in proper repair, pay the increased wages, allow themselves a reasonable salary and secure a reasonable rate of return on their investment. In this regard he testified that the storage rates the farmers were paying in the Sacramento Valley are the lowest in the United States, although warehouse labor costs paid in California are much higher than paid in central, southern and eastern United States. He stated, moreover, that the financial statements filed by warehousemen operating government bonded warehouses show that in very many cases warehousemen have been experiencing a gradual decrease in their assets and that under comparable conditions warehousemen operating in the San Joaquin Valley and Salinas Valley at higher rates appeared to be in a better financial condition.

The acting Chief of the Bureau of Field Crops of the State Department of Agriculture confirmed the testimony of this witness. In addition, he stated that infestation was, generally speaking, more common in the Sacramento Valley than in the San Joaquin Valley. He attributed this to lack of funds with which to pay for infestation control..

Applicants have consistently represented that competition between the Sacramento Valley warehousemen makes it absolutely es-

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Excluding a four-year period prior to 1921, this witness was in the employ of the United States Department of Agriculture until July 1941. From 1921 to July, 1941, he was also with the California Department of Agriculture. He resigned as Chief of the Bureau of Field Crops.

essential that rates on grain and rice be uniform. In support of this position, reference was again made to the fact that prior to 1931 the rate in effect on rice was \$2; that in 1931 a warehouseman at Marysville established a rice rate of \$1.50; and that the rates of nearly all warehousemen storing rice were forced to this lower level. This reduction in the rice rate was attributed to the chain-like effect of competition between warehousemen. The Associations' tariff agent introduced an exhibit showing first season storage rates on grain and rice prepared in geographical sequence as to warehouse location to show this chain-like effect of competition. This exhibit shows that the rates generally are competitive. The instances where warehousemen maintain rates lower and higher than the general grain and rice rates of \$1.25 and \$1.50, respectively, are comparatively few. In the majority of these instances the warehousemen maintaining rice rates which are out of line with the general rate maintain the general grain rate while those warehousemen having grain rates out of line with the general rate maintain a rice rate of \$1.50. It is the witness' contention that where warehousemen maintain rates differing from the general rates they prefer to concentrate on storing some other commodity and that in reality the rates are paper rates only. For example, he referred to the grain rate of \$1.50 at Sacramento, and declared that the warehousemen at this point do not solicit grain storage because they know they cannot get it at the \$1.50 rate and do not want it at a lesser rate. Other witnesses likewise urged that competition requires uniformity in rates.

Considerable testimony was introduced at the original hearings to the effect that the Sacramento Valley warehousemen have, since 1933, experienced steadily increasing operating costs, without corresponding increases in the storage rates.¹² At the rehearing the Associations' tariff agent and other witnesses introduced testimony to show that the operating costs of the warehousemen involved have increased over and above those which the warehousemen were said to have experienced at the time of the original hearings.

The rates proposed on the other commodities involved, except wool, are season storage rates. The first season rates include the services of receiving, weighing in, piling and delivery to cars and trucks. The rates proposed for each subsequent storage season are the same as those proposed for the first season. The proposed season storage rate on seed is \$2, on dried fruit and nuts \$2.25, and on alfalfa meal \$2.50, and the monthly storage rate on wool is 30 cents per bale for the first month and 20 cents for each succeeding month's storage. The present rates in the Sacramento Valley vary considerably.¹³ In support of the rates sought, the Associations'

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Among other things, the increased costs were said to have resulted from increased wages paid to warehouse workers, increases in the price of materials and supplies, increases in the cost of repairs, additional tax burdens in the form of workmen's compensation insurance, unemployment insurance, old age pension reserve taxes, the imposition of warehouse registration fees, and increased weighmaster's fees.

¹³

The following comparison of existing rates in the Sacramento Valley was given:

(Rates in Dollars and Cents)

	Alfalfa Meal	Dried Fruit	Nuts	Seeds
Present Low Rate	1.25	1.50	1.75	1.25
Present High Rate	2.00	2.00	2.25	1.30

On wool, the variation in present rates was said to be extreme. He stated that in one instance a rate of \$1.25 per season is provided and that in two or more instances the rate is 50 cents per bale for the first month and 25 cents per bale per month thereafter.

tariff agent stated that they were related to the proposed season storage rate of \$1.50 on grain and \$1.75 on rice, having regard for their handling and storing characteristics, the small amounts stored and the higher value which most of these commodities have.¹⁴ He compared the proposed season storage rates with rates named in Association tariffs applicable in other sections of California. With few exceptions, the rates which the Associations' tariff agent used as a basis of comparison were constructed on a monthly package basis. Under this basis, separate charges are provided for the services of receiving, weighing in, piling and delivering.

The witness contended that based on his comparison the proposed rates are quite reasonable. He expressed the opinion that the increased revenue which would result from the increases under the proposed rates on these commodities, as well as on grain and rice, would not result in earnings to the warehousemen sufficient to produce an adequate rate of return. He stated, with reference to these commodities, that competition was not chain-like in effect but centralized among competing warehousemen in the same community.

At the original hearings farmers and other witnesses expressed their opposition to any increase in warehouse rates because of the low prices of grain and other farm commodities and the unsatisfactory financial condition of the farmers. At the rehearing, a witness employed by the Federal-State Market News Service testified that there has been a general increase in all farm commodity prices. The following average prices were paid to California farmers for barley, wheat, rice and corn as of September 15, 1940, and February 15, 1942:

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Seven warehousemen have tariff rates on alfalfa meal, eleven on dried fruits, nine on nuts and thirty-one on wool.

(Prices are stated in Dollars and Cents
per 2,000 pounds)

	<u>Barley</u>	<u>Wheat</u>	<u>Rice</u>	<u>Corn</u>	<u>Alfalfa Meal</u>
September 15, 1940	16.25	25.67	26.66	28.21	6.60
February 15, 1942	35.84	37.33	62.22	35.36	16.90

Another witness testified that the price paid farmers for wool has more than doubled since September 15, 1940.

Originally, the Associations urged the adoption by both applicant and defendant warehousemen of uniform tariff rules, regulations and incidental charges to insure the uniform basis of rates sought. They also urged that uniformity in and of itself was desirable. In denying their request the Commission pointed out that, except in several instances, the Associations made no attempt to justify their propriety in any other respect. At the rehearing, the Associations' tariff agent offered additional justification in support of the uniformity sought. He stated that tariffs of certain of the warehousemen have been on file for many years and frequently do not properly reflect their present operating practices. He also stated that some of the tariffs on file are lacking in definite and complete rules and regulations that define the application of the rates, services and charges of the warehousemen. The witness contended that the uniform adoption of the tariff proposed would be a distinct benefit.

The Associations' tariff agent supplemented and amended the proposed warehouse tariff at the rehearing. The rule pertaining to the hours of service was changed to permit service at agency warehouses before 8:00 A.M. and after 5:00 P.M. The rule originally provided rigid opening and closing hours and was objected to for that reason. The rate for detention of labor at nonagency warehouses was increased from 75 cents to \$1 per man hour to correspond with the

rate proposed for special labor services and to more nearly reflect increased warehouse operating costs. Under the tariff as initially proposed commodities other than grain and rice would be stored only at the option of the individual warehousemen. As now proposed these commodities will be stored in all instances when the storage facilities are considered by the warehousemen to be adequate or suitable.

It originally appeared that it was proposed that all rates be increased to \$1.50 on grain and \$1.75 on rice. However, the proposed tariff named rates for the storage of grain and rice only when stored in sacks. No basis of rates was provided for the storage of these commodities in bulk.

At the rehearing, the Associations' tariff agent supplemented the proposed tariff to provide rates for the storage of grain in bulk. As proposed, warehousemen having bulk storage facilities may elect whether they would store grain in bulk at the same rate as proposed for grain when stored in sacks, or at a rate 25 cents per ton higher.

The proposed tariff was likewise amended by changing the description "in sacks," shown in connection with the grain and rice rates, to read "in cloth sacks." This change was motivated by an anticipated shortage of burlap sacks and by the fear that grain and rice would be offered to the warehousemen in paper sacks. In support of this restriction, the witness explained that warehousemen have no knowledge of the cost or practicability of handling and storing grain and rice in paper sacks. He stated that this problem is state-wide in scope and urged that rates for the storage of these commodities in paper bags be considered in a separate proceeding so as not to delay a decision in these proceedings. The representative for California Farm Bureau Federation was agreeable, provided there would be no unreasonable delay in considering the matter.

The Associations' tariff agent was granted permission to submit after the close of the rehearing an amendment of the proposed tariff provision authorizing the collection of additional storage charges when warehousemen are unable to effect delivery of merchandise before expiring storage dates.¹⁵ This was done to give the witness an opportunity to remove certain ambiguities existing in the rule as originally proposed and to provide for a waiver of storage charges on commodities remaining in storage beyond the expiring storage date in those instances where the warehouseman was given a reasonable time to effect delivery.

A witness, testifying on behalf of California rice millers, objected to the present and proposed rice season storage period, which is the period from September 1 to August 31 of the following year. This witness sought the establishment of a general storage season beginning October 1 and ending September 30 of the following year, and, in addition, a storage period beginning September 1 and ending the

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The amended provision reads as follows:

"(g) Where the warehouseman is unable to load out grain, rice, or other goods on or before the date which terminates the monthly or season rate, the additional storage rate provided in the tariff for the extended storage period will be charged.

"Shipping instructions will be acted upon in the order in which they are received. Warehouseman will consider vague, restricted, or suspended shipping dates as being received on the date when the specific unrestricted shipping date is received by the warehouseman.

"The warehouseman will not be responsible for additional storage charges which accrue from inability to obtain rail cars or from failure of other carriers to pick up shipments at warehouse within the date which terminates the monthly or season rate.

"Where specific unrestricted shipping instructions are received by warehouseman two weeks prior to the date which terminates the monthly or season rate, the warehouseman shall not plead inability to make shipment within said termination date, unless caused by failure of carriers to furnish necessary transportation equipment."

following August 31 to cover rice stored during the month of Sep-
¹⁶tember. As an alternative, the witness suggested a storage season commencing with the first day of the month in which rice is received for storage and ending one year hence, with the provision that the season would commence not later than October 1.

The witness testified that in 1920, when September was established as the start of the rice season in the Sacramento Valley, rice growing was in an experimental stage and that there were large quantities of rice grown which were harvested in that month, whereas 90 per cent of the rice presently cultivated does not mature until October and November. He stated the survey report of the Appraisal Board of the California Rice Industry shows that but 2.573 per cent of the rice warehoused in the years 1937 to 1941, inclusive, was
¹⁷warehoused in September. He contended that the storage season should be changed to fit the present rice harvesting and warehousing period so as to permit a full year's storage at the first season rate.

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This proposal is generally similar to that made at the original hearings in these proceedings by the same witness on behalf of the California Rice Industry Marketing Board, which is no longer functioning but which represented the same rice millers who urge the present season storage period change.

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The total crop and quantities warehoused in September for the years shown were said to be as follows:

Year	Total Crop		Warehoused in September	
	Bags		Bags	Per Cent
1937	4,098,100		113,236	2.763
1938	4,095,000		68,999	1.685
1939	4,050,000		314,651	7.769
1940	4,248,000		33,882	0.797
1941	4,131,000		-	-
	<u>20,622,100</u>		<u>530,768</u>	<u>2.573 Average</u>

In replying to the Associations' original contention that a season commencing October 1 would not allow sufficient time to clean and fumigate the warehouses, the witness argued that warehouses are not cleaned out at the end of a storage period and that the warehousemen carry a considerable amount of rice in the second season. The amount of rice in storage in California warehouses on September 1, the date when a new storage season rate takes effect, was shown as 678,398 bags in 1938; 787,121 bags in 1939; 792,721 bags in 1940; and 285,924 bags in 1941.

The California Farm Bureau Federation urged that the start of the rice storage season be deferred at least one month. Its reasons for this request are substantially similar to those urged on behalf of the California rice millers' proposal.

The Associations oppose this change for the reason that it would, in some instances, effect a reduction in storage rates.

With the exception of the objection to the rice storage season, no opposition was expressed at the rehearing to the proposed rate increases and standardization of rules, regulations and incidental service charges. Certain defendant warehousemen requested the Commission to consider them as applicants.¹⁸

The record on rehearing is persuasive that the existing storage rates on grain and rice are too low, and that applicants should be permitted to establish increased rates. However, the record does not contain any testimony in support of their request to observe, at their option, rates for the storage of grain in bulk.

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In making this request, they state that since the former hearings in these proceedings, farm prices have advanced considerably and that the warehousemen are confronted with increased operating expenses. These warehousemen are Williams Co-operative Warehouse Association, Farmers Warehouse at Williams, Marysville Warehouse, Northern Star Mills, and Woodland Rice Company (formerly Woodland Rice Mills).

25 cents a ton higher than the proposed rate for grain stored in sacks. Consequently, it should be denied. Applicants should be authorized to increase their rates to \$1.50 on grain and \$1.75 on rice. The Commission stands ready to consider the matter of a further increase in rates for the storage of grain in bulk facilities should conditions make a further increase necessary, provided proponents of the increase proposal are prepared to make a showing in support thereof.

Applicants' allegation that defendants' need for increased revenue is as great as applicants' appears well supported. Moreover, it is clear that competition between applicant and defendant warehousemen makes it essential that defendants' rates on grain and rice be similarly increased. I believe the record justifies an order requiring defendants to establish and maintain rates identical with those proposed by applicants on grain and rice.

Before turning to other matters it should be pointed out that applicants have rested their request for increased rates upon hypothetical rather than actual operations. This was done, it is realized, because the Commission found in considering the original record that the annual reports were for the most part unsegregated or only partially segregated as between utility and nonutility operations, were improperly constructed and of little probative value in determining applicants' financial status. Their own engineer found it impossible to use those reports as a source from which to develop reliable cost data. While the record is convincing that applicants are entitled to relief, it should be made clear that those seeking increased rates are expected to prepare their reports and testimony in a manner that will reflect a full and correct picture of their financial status. The probable effect of the granting of the relief sought must be shown. Utility and nonutility revenues, expenses and investments must be segregated and the utility portion thereof set forth in a manner that will leave no room for doubt as to its accuracy and completeness.

The rates in effect in the Sacramento Valley have, for many years, applied for the storage of grain and rice in sacks. These rates apply regardless of the material used in the sack's construction. To grant the Associations' proposal to store grain and rice only when packaged in cloth sacks would leave many warehousemen without rates for the storage of these commodities in other than cloth sacks. As to the remainder of the warehousemen higher merchandise rates would become effective. Until the probability of storing grain and rice in paper bags has been established and the reasonableness of higher rates therefor is brought to the Commission's attention, warehousemen should be required to observe for the storage of these commodities in such packages rates no higher than those authorized on grain and rice packaged in cloth sacks.

The showing made in support of the increased season storage rates sought on the other commodities involved is limited to the statement that they are properly related to those proposed on grain and rice, and that they compare favorably with rates in effect in other territories. Some of the warehousemen who would be affected by the increases maintain on certain of these commodities low monthly storage rates; others maintain season rates substantially lower than those here proposed. If the Commission were to grant the increases proposed, such action would result in some cases in considerable increases over the present rates maintained by the individual warehousemen on these commodities. While some adjustment in existing rates may well be proper, the record does not justify the rates sought, nor afford a basis for determining what proper rates would be.

With reference to the proposals to change the rice storage season, it is evident that the present season is no longer in consonance with the time rice is harvested and placed in storage in the Sacramento Valley. Storers of rice are entitled to a season storage period which conforms to the changed rice harvesting and storage seasons.

Applicants and defendants will be expected to incorporate in their tariffs a rule providing for a season storage period beginning October 1 and ending September 30 of the following year and, in addition, a provision to the effect that the charge accruing when rice is stored an additional month or fraction thereof prior to the beginning of the storage season shall not exceed the charge assessed for the storage of such rice for a like period after the expiration of the season storage period.

Here, as at the original hearings the Associations have made no attempt to justify the propriety of the majority of the rules, regulations and incidental charges which they desire uniformly to establish for both applicant and defendant warehousemen. Therefore, with two exceptions, applicants should be authorized and defendants should be directed to establish only those provisions which are indispensable to the application of the storage rates on grain and rice. Referring to the exceptions, the record appears to justify the proposed rule relating to warehouse hours of service and a rule covering the collection of additional storage charges when warehousemen are unable to effect delivery of merchandise before expiring storage dates. The proposed rule, although apparently intended to provide that additional storage charges would not apply where delivery instructions afford warehousemen 14 days to effect delivery before the expiring storage date, requires the assessment of additional storage charges whenever goods upon which delivery instructions are given remain in storage beyond that date. It will be reworded to provide for the collection of additional storage charges by warehousemen only in instances where the time between the expiring storage date and the time the commodity is ordered out does not allow 14 days to effect delivery and where the commodity is not delivered before the expiring storage date. This is being done in consideration of the facts here of record and to accomplish the result intended by the Associations' tariff agent. It should not be construed as a finding by the Commission that a period of 14 days is reasonable, and is without prejudice to any different conclusions which the Commission may reach on a more complete record.

I recommend the following form of order:

O R D E R

A rehearing having been held in the above entitled proceedings and based upon the evidence received and upon the conclusions set forth in the preceding opinion,

IT IS HEREBY ORDERED that applicants in Application No. 23608 be and they are hereby authorized to establish rates, rules and regulations in accordance with those set forth in Appendix "A" hereto, on or before June 1, 1942, and on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that defendants in Case No. 4544 be and they are hereby directed to establish rates, rules and regulations in accordance with those set forth in Appendix "A" hereto, on or before June 1, 1942, and on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that in all other respects Application No. 23608 be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that in all other respects Case No. 4544 be and it is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that the rates, charges, rules and regulations authorized herein may be published without regard to the terms of General Order No. 61, to the extent necessary to carry out the effect of the order herein.

The effective date of this order shall be fifteen (15) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1942.

Justus F. Cameron
Ray L. Riley
W. H. Smith
Frank K. Haverman
Richard L. Laska

Commissioners

APPENDIX "A"

RATES, RULES AND REGULATIONS

Hours of Service

Except as provided in Note 1 warehouses will be open to receive and deliver merchandise not later than 8 o'clock A.M. on each work day (except Sundays and legal holidays), and will close not earlier than 5 o'clock P.M., subject to the condition that said warehouses may be closed during the lunch hour from 12 o'clock noon to 1 o'clock P.M. on said work days.

When at owner's request, merchandise is received at or delivered from warehouses not regularly open for receipt or delivery of merchandise, any delay to the warehouseman in the receipt or delivery of merchandise caused by owner or shipper, or his agent, will be assessed at the rate of one dollar (\$1.00) per hour per man for such detention.

Note 1.-When the volume of storage does not warrant the keeping open of warehouses daily as above provided, the warehouseman shall be notified twenty-four hours in advance stating the hour the merchandise will be delivered to or received from warehouse.

Delivery Instructions

When delivery instructions do not allow 14 or more days from the date which terminates the storage period to effect delivery of grain and paddy rice and delivery is not effected before the date which terminates the storage period, an extra charge of 75 cents per ton will be made.

When delivery instructions allow 14 or more days from the date which terminates the storage period to effect delivery of grain and paddy rice and delivery is not effected before the date which terminates the storage period because of failure of rail carriers to furnish necessary transportation equipment or due to the failure of other carriers to pick up the shipments, an extra charge of 75 cents per ton will be made.

In applying this rule shipping instructions will be acted upon in the order in which they are received. Unintelligible instructions will be referred to the party issuing them and will not be regarded as shipping orders until clear instructions are received.

Application of Storage Rates

Season storage rates on grain apply from the date following the receipt of the merchandise at warehouse but not earlier than June 1, up to and including the following May 31. Season storage rates on paddy rice apply from the date following the receipt of merchandise at warehouse but not earlier than October 1, up to and including the following September 30.

The first season storage rates on grain and paddy rice include the services of receiving, weighing in, piling and delivery. The first season storage rate on paddy rice includes the additional service of weighing out on delivery.

Rates For Storage Of Grain And Paddy Rice - All rates are in dollars and cents per ton of 2,000 pounds.

	<u>Grain, Whole</u>	<u>Paddy Rice</u>
First season or any portion thereof	1.50	1.75
Each succeeding season or any portion thereof, except as provided in Note 1	1.50	1.75

Note 1.- For grain and paddy rice remaining in storage after the date which terminates the season storage period but which is removed from storage within the month following the termination of the season storage period, the charge will be 75 cents per ton.

On paddy rice received during the month of September a storage charge of 75 cents per ton will be made for that month's storage.