

Decision No. 42923

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the joint applications of)

1. Eckhart A. Thompson, as Trustee in bank-)
 ruptcy for H. S. Brietigam, an individual,)
 George S. Brietigam, an individual, and)
 Lemoore Grain and Feed Co., a copartnership)
 consisting of H. S. Brietigam and George S.)
 Brietigam, bankrupts, hereinafter referred)
 to as Lessor, for an order authorizing the)
 leasing of public utilities properties; and)
 of)

2. Herbert E. Frey, W. J. Smith and Carl R.)
 Schulz, as joint tenants (and not as partners))
 hereinafter referred to as Lessee, for an)
 order authorizing them to lease the said)
 public utilities properties and for authority)
 to assign such lease to Kings County Warehouse)
 Co., a California corporation; and of)

Application
 No. 30342

3. Kings County Warehouse Co. for an order)
 authorizing it to accept the assignment of)
 said lease and to issue capital stock.)
 -----)

O P I N I O N

In this application, the Commission is asked to enter
 its order authorizing:

(a) Eckhart A. Thompson, as Trustee in bankruptcy for H. S.
 Brietigam, an individual, George S. Brietigam, an individual, and
 Lemoore Grain and Feed Co., a copartnership consisting of H. S.
 Brietigam and George S. Brietigam, bankrupts, to lease the ware-
 house and certain other properties described in Exhibit "B" on file
 in this application to Herbert E. Frey, W. J. Smith and Carl R.
 Schulz, as joint tenants (and not as partners), and authorizing
 said Lessees to assign the lease to Kings County Warehouse Co.;
 and

(b) Authorizing Kings County Warehouse Co. to operate said warehouse properties for a period of one year under and pursuant to a tariff in the form filed as Exhibit "E" in this application; and

(c) Authorizing Kings County Warehouse Co. to issue and sell, at \$1 per share, 15,000 shares of its capital stock and use the proceeds in the operation of its business.

It is of record that the Trustee in bankruptcy offered the properties referred to in this application for public sale on May 11, 1949, and that no bids for the properties were received. In order to permit the emergency operation of the properties, a one-year lease of the same has been authorized by the Court.

The Lessees, Herbert E. Frey, W. J. Smith and Carl R. Schulz, have agreed to pay as rental for the properties, pursuant to the terms of the lease, \$20,000. They desire that the properties be operated by a corporation and therefore have caused Kings County Warehouse Co. to be organized. They propose to assign to Kings County Warehouse Co. the lease filed as Exhibit "B". Kings County Warehouse Co. agrees to assume and perform all of the covenants and conditions of the lease, subject to the primary liability of Lessees for the payment of rental under the lease. In the assignment, Kings County Warehouse Co. covenants and agrees with Herbert E. Frey, W. J. Smith and Carl R. Schulz to pay to them as consideration for the above assignment, an amount equal to the following percentages of the profit of said corporation from the operations of the leased premises under said lease:

To W. J. Smith	29.4%
To Herbert E. Frey	15.3%
To Carl R. Schulz	15.3%

Kings County Warehouse Co. is a corporation organized under the laws of California. It has an authorized stock issue of 50,000 shares of the aggregate par value of \$50,000. In this application, as amended, it asks permission to issue and sell for cash, at \$1 per share, to William J. Smith 7,350 shares of its stock, to Herbert E. Frey 3,825 shares and to Carl R. Schulz 3,825 shares, and use the proceeds to maintain and conduct its warehouse business.

We believe that Kings County Warehouse Co. should be permitted, until otherwise authorized or ordered by the Commission, to conduct its warehouse business under rates, rules and regulations similar in form to those filed in this application as Exhibit "E".

Applicant's petition shows that there is a great demand for the storage facilities referred to in this application and that farmers in the vicinity of applicants' facilities are urging that such facilities be reopened forthwith and not later than June 1, 1949. The petition further shows that it is desirable from the standpoint of the Trustee and the creditors that the warehouse and other properties be operated while an attempt is made to sell them.

O R D E R

The Commission having considered applicants' requests and being of the opinion that there is no need to hold a hearing on this application, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by Kings County Warehouse Co. for the purposes herein stated, that the expenditures for such purposes are not, in whole or

in part, reasonably chargeable to operating expenses or to income, and that this application should be granted; therefore,

IT IS HEREBY ORDERED as follows:

1. Eckhart A. Thompson, as Trustee in bankruptcy for H. S. Brietigam, an individual, George S. Brietigam, an individual, and Lemoore Grain and Feed Co., a copartnership consisting of H. S. Brietigam and George S. Brietigam, bankrupts, and Herbert E. Frey, W. J. Smith and Carl R. Schulz may execute a lease in, or substantially in, the form of the lease on file in this application as Exhibit "B", and may assign said lease to Kings County Warehouse Co. pursuant to the provisions of the assignment of lease on file in this application as Exhibit "C".

2. Kings County Warehouse Co. may operate said warehouse properties under and pursuant to the rates, rules and regulations on file in this application as Exhibit "E", until otherwise authorized or ordered by the Commission.

3. Kings County Warehouse Co. may issue and sell, on or before August 31, 1949, at \$1.00 per share, 15,000 shares of its capital stock, and use the proceeds obtained from the sale of said shares of stock to conduct and maintain its warehouse business.

4. Within thirty (30) days after the issue of said shares of stock, Kings County Warehouse Co. shall file with the Commission a report showing the number of shares of stock issued under the authority herein granted, the consideration received therefor, the names of the persons to whom said shares of stock were issued, and the purposes for which it has or will use the proceeds obtained from the issue of said shares of stock.

5. Within thirty (30) days after the execution of said lease and assignment of lease, applicants shall file with the Commission a copy of the lease and assignment of lease as executed.

6. The authority herein granted is effective upon the date hereof.

Dated at San Francisco California, this 26th day of May, 1949.

R. F. Munn
Ray F. Munn
Harold K. Hale
Harold K. Hale
Commissioners