

ORIGINAL

Decision No. 44144

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. Breitigam, an individual,)
 George S. Breitigam, an individual, and)
 Lemoore Grain and Feed Co., a copartnership)
 consisting of H. S. Breitigam and George S.)
 Breitigam, bankrupts, hereinafter referred)
 to as Lessor, for an order authorizing the)
 leasing of public utilities properties; and)
 of)
 2. W. J. Smith and Carl R. Schulz, as joint)
 tenants (and not as partners) hereinafter)
 referred to as Lessee, for an order author-)
 izing them to lease the said public utilities)
 properties and for authority to assign such)
 lease to Kings County Elevator Co., a Calif-)
 ornia corporation; and of)
 3. Kings County Elevator Co. for an order)
 authorizing it to accept the assignment of)
 said lease and to issue capital stock.)
 -----)

Application
No. 31350

O P I N I O N

This is an application for an order authorizing Eckhart A. Thompson, as trustee in bankruptcy for H. S. Breitigam, et al., to lease certain warehouse properties to W. J. Smith and Carl R. Schulz, as joint tenants; authorizing said individuals to assign such lease to Kings County Elevator Co., a California corporation; and authorizing said corporation to issue \$15,000 par value of its stock.

Eckhart A. Thompson is the trustee in bankruptcy for H. S. Breitigam, an individual, and George S. Breitigam, an individual, and Lemoore Grain and Feed Co., a copartnership consisting of H. S. Breitigam and George S. Breitigam, bankrupts. The properties formerly operated by H. S. Breitigam, et al., include warehouse facilities

located in Lemoore. They were taken over by a receiver appointed by the court in January, 1949. Thereafter, a trustee in bankruptcy was appointed in February, 1949, which trustee offered the property for sale. It appears that no bids were received and in order to permit emergency operations, a one-year lease of the properties was authorized by the court. Accordingly, operations have been conducted by Kings County Warehouse Co. during the crop season ending May 31, 1950. The lease of the properties to Kings County Warehouse Co. was approved by this Commission by Decision No. 42923, dated May 26, 1949, in Application No. 30342.

The present lease will expire on May 31, 1950. It appears that the properties, during the last six months, again were offered for sale with no bids being submitted. It is reported, however, that there is a great demand for storage facilities in the area served by the properties, and that accordingly it is desired to continue the operations of the facilities under a one-year lease to continue to May 31, 1951. The lease proposed to be entered into has been approved by the bankruptcy court and a copy has been filed in this proceeding and marked Exhibit B.

Under the terms of the proposed lease, W. J. Smith and Carl R. Schulz, as joint tenants and not as partners, will lease the premises for a period of one year commencing June 1, 1950, for the sum of \$15,000. They are engaged in business in San Francisco and do not desire to operate the business as individuals. Accordingly, they have caused the organization of Kings County Elevator Co., a corporation, to conduct the business and propose to assign the lease to it. The corporation proposes to issue and sell \$15,000 par value of its capital stock to W. J. Smith and Carl R. Schulz for the purpose of obtaining funds to maintain the service.

It is reported that Kings County Elevator Co. will conduct its operations in accordance with the proposed tariff filed in this proceeding as Exhibit E, which tariff is substantially the same as that presently in effect in the name of Kings County Warehouse Co. A review of the record indicates that the transactions as proposed herein will not be adverse to the public interest.

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 Elevator 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. Breitigam, an individual, George S. Breitigam, an individual, and Lemoore Grain and Feed Co., a copartnership consisting of H. S. Breitigam and George S. Breitigam, bankrupts, and 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 Elevator Co. pursuant to the provisions of the assignment of lease on file in this application as Exhibit C.
2. Kings County Elevator 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 Elevator Co. may issue and sell, on or before August 31, 1950, 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 Elevator 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 will become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 9th day of May, 1950.

R. J. [Signature]
Justice J. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners