

ORIGINAL

Decision No. 65889

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

- (1) In the Matter of the Application of GINO J. PETRUCCI and RAYMOND PETRUCCI, limited partners in VALLEY GRAIN DRIER CO., for order authorizing sale of limited partnership interests in said limited partnership to WILLARD W. PITMAN.
- (2) In the Matter of the Application of WILLARD W. PITMAN to assume all liabilities of VALLEY GRAIN DRIER CO. and to issue promissory note to GINO J. PETRUCCI and RAYMOND PETRUCCI.
- (3) In the Matter of the Application of WILLARD W. PITMAN to transfer certain assets to VALLEY GRAIN DRIER, INC., a corporation, together with operating rights.
- (4) In the Matter of the Application of VALLEY GRAIN DRIER, INC., a corporation, to acquire operating rights, and assets to be transferred to it by WILLARD W. PITMAN, and for authority to issue shares, and to assume liabilities of WILLARD W. PITMAN.
- (5) In the Matter of the Application of VALLEY GRAIN DRIER, INC., a corporation, for an order authorizing it to borrow money and encumber public utility property.

Application No. 45585
Filed July 5, 1963
and Amendment
Filed July 19, 1963

O P I N I O N

This is an application for an order of the Commission authorizing the transfer of warehouse operative rights and properties and the issue of notes and shares of stock.

It appears that Gino J. Petrucci, Raymond Petrucci and Willard W. Pitman, partners doing business as Valley Grain Drier Co., are engaged, among other things, in operating a public utility warehouse in Madera County, that Gino J. Petrucci and Raymond Petrucci desire to withdraw from the operations and that they have made arrangements to sell their partnership interests to Willard W. Pitman for the sum of \$35,000 and to accept, in exchange, a promissory note for \$35,000 payable on or before July 1, 1967, with interest at 10% per annum, subject to prepayment at any time without penalty.

Willard W. Pitman, in turn, proposes to transfer the properties and operations to a corporation he has organized, named Valley Grain Drier, Inc., under arrangements whereby the corporation will acquire all the assets, with certain minor exceptions, will assume the liabilities of the business and will issue to Willard W. Pitman its shares of stock in the aggregate amount of \$155,000, which appears to represent the total net book value of the assets to be transferred. The corporation also proposes to borrow \$186,000 from The Northwestern Mutual Life Insurance Company in order to discharge \$123,000 of indebtedness it will assume and to finance, in part, the cost, estimated in excess of \$60,000, of improvements and equipment consisting of grain bins, loading and unloading equipment, a new grain cleaner and a new drier, plus cost of installation. The borrowing will be represented by a note payable in installments over a period of fifteen years,

with interest at the rate of 6-1/4% per annum, payment to be secured by a deed of trust.

With respect to the proposed \$35,000 note to be issued by applicant Pitman to applicants Petrucci, and to be assumed by the new corporation, counsel for applicant advises that Gino J. Petrucci and Raymond Petrucci have been limited partners in the Valley Grain Drier Co. and that under the formula provided in the limited partnership agreement they have been earning about 10% on their investment and for this reason the agreed 10% interest rate was selected for the note.

We are not passing on the reasonableness of the proposed interest rates on the several notes. The issue in this proceeding is the effect on the public of the transfers of the public utility operations under the agreed terms of the transactions. Here, we have a business enterprise which reported, for 1962, total income of \$1,488,343, including storage revenues of only \$4,383, and, for 1961, total income of \$1,234,537, including storage revenues of only \$3,126. The reported net income, before interest and depreciation charges, amounted to \$103,003 in 1962 and to \$95,272 in 1961 whereas the total required payments on principal and interest on the two notes proposed to be issued, at the outset, will amount to approximately \$30,000 annually. The application shows that the new corporation will succeed to a going and profitable business, that it will enter upon its operations, according to a pro forma financial statement

as of July 1, 1963, with net investment in tangible assets in the reported amount of \$300,285 and long-term mortgage indebtedness of \$123,000 (which amount will be increased by not to exceed \$60,000 as additional improvements are acquired), and with a financial position including current assets in excess of current liabilities and a capital structure consisting of \$158,000 of secured and unsecured long-term debt and proprietary capital of \$155,000.

If applicants, among themselves, have agreed to a 10% interest rate in arriving at the consideration for the partnership interests, we will not, in this particular case, withhold our approval as it clearly appears, from a review of the financial statements and the recorded favorable results of operations, that the agreed terms of the proposed note to be issued for the partnership interests, as well as the other notes, will not interfere with the ability of the new operator to meet its public service obligations and to maintain and continue the warehouse operations without jeopardizing its financial condition. We find that the proposed transfers will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the issue of the notes and stock herein authorized is reasonably required for the purposes specified herein; and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

The authorization herein granted is not to be construed as indicative of amounts to be included in future proceedings for any purpose nor as a finding of the value of the properties referred to in this application nor as a finding of the current cost of capital. Authorization to issue the notes under the proposed terms is for the purpose of this proceeding only and is not to be taken as a precedent that the Commission in the future will grant similar approval to this or any other utility.

O R D E R

IT IS ORDERED that:

1. Gino J. Petrucci and Raymond Petrucci may sell and transfer their partnership interests in the Valley Grain Drier Co. to Willard W. Pitman under the terms and conditions set forth in this application and Willard W. Pitman may purchase and acquire the same and, in payment, issue a promissory note in the principal amount of not to exceed \$35,000.

2. Willard W. Pitman may sell and transfer all the operative rights and assets of Valley Grain Drier Co. and Valley Grain Drier, Inc., may purchase and acquire the same and, in payment, may assume or guarantee the outstanding liabilities of Valley Grain Drier Co., including said \$35,000 note, and may issue not to exceed \$155,000 par value of its common stock.

3. Valley Grain Drier, Inc., may issue a note, or notes, to The Northwestern Mutual Life Insurance Company in the total principal amount of not to exceed \$186,000 for the purposes set forth in this application and may execute a deed of trust, which note and deed of trust shall be in the same form, or in substantially the same form, as the note and deed of trust filed in this proceeding as Exhibit D and Exhibit E, as amended, respectively.

4. Within thirty days after the consummation of the transfer herein authorized, Valley Grain Drier, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

5. Valley Grain Drier, Inc., shall amend or re-issue the tariffs on file with the Commission, naming rates, rules and regulations governing the public utility warehouse operations here involved to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the

construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

6. Effective concurrently with the effective date of tariff filings required by Ordering Paragraph 5 hereof, the operative right set forth in Case No. 6834 is hereby revoked and in place and stead thereof, a prescriptive operative right as a public utility warehouseman is stated for Valley Grain Drier, Inc., as more particularly set forth in Appendix A attached hereto.

7. In providing service pursuant to the operative right herein stated, Valley Grain Drier, Inc., shall comply with and observe the following service regulation:

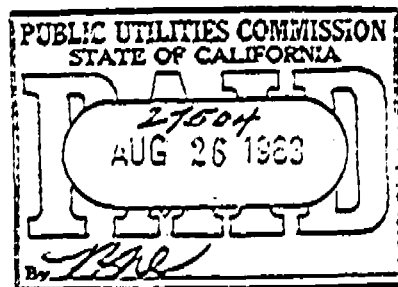
Within thirty days after the effective date hereof, it shall file a written acceptance of the operative right herein stated. By accepting the operative right herein stated, it is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file said reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operative right set forth in Appendix A hereof.

8. Willard W. Pitman and Valley Grain Drier, Inc., shall file reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

9. The authority herein granted to issue notes shall become effective when applicants have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$119. In all other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 20th day of AUGUST, 1963.

William L. Bonds
President
John R. Atchley
Carl [unclear]
George J. Hoover
Frederick B. Hallock
Commissioners



VALLEY GRAIN DRIER, INC.
(a corporation)

Valley Grain Drier, Inc., a corporation, possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Area or Capacity</u>
Berenda (Madera County)	9,447 tons bulk storage capacity

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 65889 Application No. 45585.

