

ORIGINAL

Decision No. 72174

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of STANISLAUS FARM
SUPPLY COMPANY to seek revocation
of public utility operative right. }

Application No. 49065
Filed January 3, 1967

O P I N I O N

Applicant Stanislaus Farm Supply Company filed its application herein requesting that the Commission find that the applicant, during the entire time of its operations, was a nonprofit agricultural cooperative doing business only with its members and as such was not entitled to any of the benefits and privileges as a warehouseman as defined in the Public Utilities Code, and that the Commission issue an order revoking applicant's operative right as a public utility warehouseman as of the date it acquired its said warehouse pursuant to Decision No. 56934 issued July 8, 1958, in Application No. 40169, and revoking the prescriptive operative right as a public utility warehouseman of which applicant was declared the possessor in Case No. 6872, dated August 23, 1960.

No protest to the granting of the application has been filed with this Commission.

Based upon a consideration of the allegations set forth in the application herein, the Commission finds as follows:

1. The Stanislaus Farm Supply Company, the applicant herein, was incorporated as a nonprofit agricultural cooperative association under articles of incorporation executed on June 13, 1949, and filed with the Secretary of State on August 14, 1949, pursuant to the provisions of Chapter 4, Division 6 of the Agricultural Code.

2. By Decision No. 56934, issued July 8, 1958, in Application No. 40169, Adelbert Pflaging, doing business as W. H. Sisk Warehouse, was authorized to transfer his public utility warehouse business and property to applicant, and applicant was authorized to acquire said public utility warehouse business and property.

3. From the date of the purchase of said warehouse business and property the Stanislaus Farm Supply Company has operated said warehouse as a nonprofit agricultural cooperative association solely for the benefit of its members and not for the general public.

4. Applicant's income from its bean cleaning and warehouse operations at said warehouse for the period 1957 through the fiscal year 1965-1966 amounted to \$29,916.75, and all of said income was received from members of the applicant.

5. Following the 1959 amendments to Sections 1051 and 1052 of the Public Utilities Code, this Commission, in Case No. 6872, issued its order, dated August 23, 1960, determining that applicant possessed a prescriptive right as a public utility warehouseman.

6. Said order in Case No. 6872 was issued on the basis of an affidavit referred to therein as Exhibit No. 1 and executed by Mr. Joseph Sousa, manager of applicant.

7. At the time of the execution and filing of the affidavit Mr. Sousa was unaware of the provisions of Section 239(b) of the Public Utilities Code which exempted applicant from the definition of a "warehouseman" when dealing only with storage for members of an agricultural nonprofit cooperative association or corporation.

8. Said affidavit states that the commodities, i. e., beans and grain, stored in the warehouse on September 1, 1959 belonged to

applicant and its growers and that there were no other storers of commodities in applicant's warehouse on said date.

9. A public hearing on this application is not necessary.

Based on the foregoing findings of fact the Commission concludes as follows:

1. Applicant Stanislaus Farm Supply Company, since July 8, 1958, has not been and is not now a "warehouseman" as defined in the Public Utilities Code.

2. Said applicant's operative right as a public utility warehouseman should be revoked as of the date it acquired the W. H. Sisk Warehouse business and property from Adelbert Pflaging, pursuant to Decision No. 56934 issued July 8, 1958, in Application No. 40169.

3. Said applicant's prescriptive operative right as a public utility warehouseman should be revoked as of the date said applicant was determined to possess such right in Case No. 6872, dated August 23, 1960.

O R D E R

IT IS ORDERED that:

1. The operative right as a public utility warehouseman of applicant Stanislaus Farm Supply Company is revoked as of the date it acquired the W. H. Sisk Warehouse business and property from Adelbert Pflaging pursuant to Decision No. 56934 issued July 8, 1958, in Application No. 40169.

2. Applicant's prescriptive operative right as a public utility warehouseman is revoked as of the date applicant was determined to possess such right in Case No. 6872, dated August 23, 1960.

3. Jack L. Dawson, Agent, is hereby authorized and directed to cancel the participation of Stanislaus Farm Supply Co., Inc., a corporation, from his Warehouse Tariff No. 38, Cal. P.U.C. No. 203, on file with the Commission, such cancellation to be made within ninety days after the effective date of this order on not less than ten days' notice to the Commission and the public.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of MARCH, 1967.

D. E. [Signature]
President

William B. [Signature]

Agata [Signature]

William [Signature]

Paul P. [Signature]
Commissioners