

Decision No. 74095**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GEORGE R. ZUMWALT )  
 and IVY G. ZUMWALT, et al., )  
 dba I. G. ZUMWALT CO., a Limited )  
 Partnership, and FARMERS' RICE )  
 COOPERATIVE, a corporation, to )  
 enter into a lease of certain )  
 warehouse property, assets and )  
 equipment. )

Application No. 49979  
 (Filed January 29, 1968;  
 Amended April 12, 1968)

O P I N I O N

George R. Zumwalt and Ivy G. Zumwalt, et al., doing business as I. G. Zumwalt Co. (hereinafter referred to as Zumwalt) and Farmers' Rice Cooperative (hereinafter referred to as Cooperative) request authority to execute a lease of certain warehouse property, assets and equipment and to transfer to Cooperative the operating rights of Zumwalt. A copy of the lease is attached to the application as Exhibit A. The lease is for a period of five years at an annual rental of \$35,000. There are no protests.

Zumwalt is a limited partnership, organized and existing under and by virtue of the laws of the State of California and conducts operations as a public utility warehouseman pursuant to a prescriptive right set forth by Commission Order in Case No. 6846.

Cooperative is a nonprofit cooperative marketing association organized under Chapter 4, Division 6 of the Agricultural Code of California and is engaged in the business of drying, milling, storing, processing and marketing rice and rice products for its members. It conducts operations as a public utility

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warehouseman pursuant to a prescriptive right set forth by Commission Order in Case No. 6657.

The application alleges that Cooperative intends, upon acquisition of the leased facilities, to continue the operation of the warehouse, drying and storage facilities of Zumwalt primarily for the benefit of its members but will also service the nonmembers who have employed such facilities prior to the execution of the lease.

After consideration, the Commission finds that the proposed lease and the transfer of the operating authority would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the prescriptive rights presently held by Zumwalt and Cooperative and the issuance of a certificate in appendix form to Cooperative.

Farmers' Rice Cooperative is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business at a particular location. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1968, George R. Zumwalt and Ivy G. Zumwalt, et al., doing business as I. G. Zumwalt Co., may transfer their operative rights referred to in the application to Farmers' Rice Cooperative.

2. Within thirty days after the consummation of the transfer herein authorized, Farmers' Rice Cooperative 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.

3. Farmers' Rice Cooperative shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations herein to show that it has adopted or established as its own, said rates and rules. 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. Failure to comply with and observe the provisions of General Order No. 61-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Farmers' Rice

Cooperative shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current fiscal year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Farmers' Rice Cooperative, a corporation, as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the prescriptive rights set forth in Commission Orders in Cases Nos. 6846 and 6657, which prescriptive rights are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, buyer shall comply with and observe the following service regulation:


Within thirty days after the effective date hereof, buyer shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its operations. Failure to file such reports, in such form and at such time

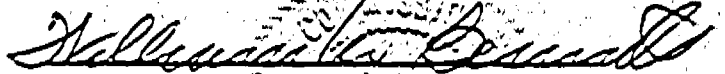
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as the Commission may direct, may result in a cancellation of the public utility warehouse operations authorized by this decision.

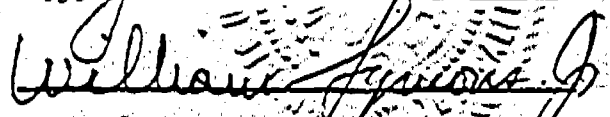
The effective date of this order shall be twenty days after the date hereof.


Dated at San Francisco, California, this 14<sup>th</sup> day of MAY, 1968.

  
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President

  
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Commissioner

Farmers' Rice Cooperative, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman for the operation of storage or warehouse floor space, as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Stegeman and Vicinity	54,388
Colusa and Vicinity	35,000 Plus bulk bins, total rated capacity 262,000 CWT.

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

Issued by California Public Utilities Commission.

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