

Decision No. 84164

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARRY ROLFI,  
Receiver for PHILLIPS BROS.  
WAREHOUSE, a California  
corporation, for Consent to  
Transfer Control.

Application No. 55504  
(Filed February 21, 1975)

O P I N I O N

Harry Rolfi, applicant herein, is the receiver in the bankruptcy proceeding of Phillips Bros. Warehouse, a California corporation. Applicant states that on April 26, 1972 Phillips Bros. Warehouse filed an original Petition for an Arrangement under Chapter XI of the Bankruptcy Act in the United States District Court where said matter is now pending as Proceeding No. F-11199, and that prior to the filing of that petition it owned and operated a grain and seed warehouse at Delano. Applicant, as receiver, entered into an agreement to sell the real property, machinery, and equipment utilized in the warehousing operations of Phillips Bros. Warehouse to Continental Grain Company, a Delaware corporation. He has obtained an order of the United States District Court confirming the sale; however, under the terms of the sale and order confirming same, applicant is required to furnish the buyer with a policy of title insurance. The title and escrow company handling the sale requires a statement from the Commission that it consents to the transfer of said business and property of Phillips Bros. Warehouse to Continental Grain Company.

A search of the records of the Commission discloses that Phillips Bros. Warehouse Company does not hold, and has not held, a certificate of public convenience and necessity authorizing operations as a public warehouseman, nor has it filed a tariff with the Commission for warehouse operations.

Sections 851-854 of the Public Utilities Code prohibit the sale or transfer of public utility property or the acquisition of control of any public utility without express authorization of the Commission. Inasmuch as Phillips Bros. Warehouse has never had any authority from the Commission to engage in public utility warehouse operations there can be no transfer of any authority to conduct public warehouse operations. With respect to the real property, machinery, and equipment that may have been utilized for warehouse operations, to the extent that such property may have been used in public utility operations we find that the sale and transfer of said property to Continental Grain Company is not adverse to the public interest.

O R D E R

IT IS ORDERED that Harry Rolfi, Receiver in Bankruptcy, may sell to Continental Grain Company, a Delaware corporation, the real property, machinery, and equipment of Phillips Bros. Warehouse Company as set forth in Application No. 55504.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th day of MARCH, 1975.

Vernon L. Sturgeon  
President  
William J. Quinn  
William J. Quinn  
Leonard Ross  
Commissioners