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Decision No. 17082.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
MODESTO REFRIGERATING CO., )  
a corporation, for order authorizing )  
it to issue stock. )

Application No. 12876

In the Matter of the Application of )  
MODESTO REFRIGERATING CO., )  
a corporation, for order authorizing )  
it to issue bonds. )

Application No. 12922

Francis O. Hoover, for applicant

BY THE COMMISSION:

O P I N I O N

In these two proceedings the Railroad Commission is asked to make an order authorizing Modesto Refrigerating Co., a corporation, to issue \$100,000.00 of common stock and \$100,000.00 of bonds.

The applications show that Modesto Refrigerating Co. was organized on or about May 7, 1926 and that it has been organized

" in part for the purpose of conducting a plant for the pre-cooling and preparation for shipment of fruits, grapes and other farm products, and of rendering service and doing business of a kind referred to in Subdivision F of Section 2 of the "public utilities act", to wit: The refrigeration storage and handling of fruits, and other food and farm products in connection with and incidental to the transportation of the same; and that it is the intention of the incorporators of said corporation that said corporation shall carry on such business".

Heretofore, by Decision No. 16790, dated May 28, 1926, in Application No. 12876, the company was authorized to issue and sell \$500. of the \$100,000. of stock to pay organization expenses. It asks permission to issue the remaining \$99,500. of stock and the \$100,000. of bonds to pay for certain real property, to finance

the cost of constructing its plant and to provide working capital.

Applicant proposes to acquire, from Beard Land and Investment Co. certain real property, situate in the City of Modesto and described as follows:-

"Lots 1 to 8, inclusive, and lots 12 to 20, inclusive, all in Block 222 of the City of Modesto, according to the map thereof on file and of record in the office of the County Recorder of the County of Stanislaus, State of California."

An estimate of the value of the land, made by R. L. Underhill, agricultural engineer, is filed in Application No. 12876, Exhibit "B", and shows the estimated value of the property at \$14,400.00. Applicant asks permission to issue \$30,000. of stock in payment, and in support of its request alleges that the land is so situate as to be peculiarly adapted to its needs; that the appraisal submitted is conservative and that the construction of the plant upon it will enhance and increase the value thereof; that applicant was organized by those in control of the Beard Land and Investment Co. and that without the financial assistance and management and control contributed by that company the construction of applicant's plant could not be accomplished; that therefore the Beard Land and Investment Co. will be responsible for the increase in the value of the land to \$30,000. and should be entitled to the benefit of such increase, especially because it is taking stock for its property.

It seems to us, however, that here we are asked to make an order permitting applicant to capitalize a potential land value that may, or may not, result because of the proposed plant to be erected and operated. Furthermore, the appraisal of Mr. Underhill shows that his value is predicated upon the land being occupied. It therefore appears to us that the company should be permitted to issue not more than \$14,400. of stock in payment for the property.

The cost of the proposed plant is estimated at about \$145,000.  
This cost is segregated as follows:-

Excavation and fills . . . . .	\$4,121.
Concrete foundation for machinery . . . . .	1,250.
Concrete for footings, floors, etc. . . . .	13,446.
Reinforcement for floors . . . . .	2,866.
Wood structures . . . . .	7,008.
Partitions, sky-lights, etc. . . . .	29,709.
Extras . . . . .	3,000.
Insulation-cork . . . . .	20,000.
Refrigerator doors . . . . .	2,585.
Refrigerator machinery . . . . .	48,782.
Overhead-10 percent . . . . .	<u>13,276.</u>
Total . . . . .	<u>\$145,043.</u>

It appears that applicant proposes to sell the \$100,000. of bonds for \$92,000. Under the proposed trust indenture securing the bonds applicant agrees to withhold \$7,000., an amount equal to the first year's interest, leaving a balance of \$85,000. available for construction. It is reported that the balance needed to complete the plant, as well as any sums needed for working capital, will be obtained from the sale of stock in addition to the stock to be delivered for the real property, and that such stock will be purchased by Board Land and Investment Co. at par.

The bonds proposed to be issued are part of a total authorized issue of \$300,000. of first mortgage seven percent serial bonds callable at 102, and maturing during the years 1929 to 1941 inclusive. The Series "A" bonds now proposed to be issued, mature as follows:-

July 1, 1929 . . . . .	\$3,000.
July 1, 1930 . . . . .	3,000.
July 1, 1931 . . . . .	4,000.
July 1, 1932 . . . . .	4,000.
July 1, 1933 . . . . .	4,000.
July 1, 1934 . . . . .	4,000.
July 1, 1935 . . . . .	4,000.
July 1, 1936 . . . . .	4,000.
July 1, 1937 . . . . .	5,000.
July 1, 1938 . . . . .	5,000.
July 1, 1939 . . . . .	5,000.
July 1, 1940 . . . . .	5,000.
July 1, 1941 . . . . .	<u>50,000.</u>
Total . . . . .	<u>\$100,000.</u>

Applicant reports that it has made arrangements to sell its bonds to MacKenzie, Young & Co. at 92 percent of face value plus accrued interest. The payment of the Series A bonds, both principal and interest, will be guaranteed by the Beard Land and Investment Co.

A copy of the proposed trust indenture is filed with Application No. 12922. We believe that certain modifications should be made in the instrument as now filed. The usual after acquired property clause should be incorporated in the trust indenture. The interest rate on the Series A bonds should be fixed at six and one half percent per annum. In Section 20, on page 31, we believe that depreciation should be deducted from earnings before the company is permitted to declare any dividends on stock. In Section 9, on page 21, and in Article IX, on page 57, the name, "MacKenzie, Young & Co." should be eliminated. Further, there should be added to Article IX a proviso to the effect that nothing therein contained will authorize a change of the date of the maturity of the bonds, nor the rate of interest, nor the date of interest payments. The company should file a revised copy of its trust indenture with the Commission. If the same is in satisfactory form, its execution will be authorized by a supplemental order.

FIRST SUPPLEMENTAL ORDER IN APPLICATION NO. 12876

ORDER IN APPLICATION NO. 12922.

Modesto Refrigerating Co. having applied to the Railroad Commission for permission to issue stock and bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue <sup>as is herein authorized</sup> is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably charge-

able to operating expense or to income,

IT IS HEREBY ORDERED that Modesto Refrigerating Co. be, and it is hereby, authorized to issue not exceeding \$14,400.00 of stock in payment for the real property to which reference is made in the foregoing opinion and to issue and sell, at not less than par, \$50,000. of stock, and at not less than 92 percent of face value plus accrued interest, \$100,000. of Series "A" six and one half percent first mortgage serial bonds maturing in amounts and on dates indicated in the foregoing opinion, and to use the proceeds to finance the cost of constructing and equipping the pre-cooling, refrigerating and storage plant described in this application, and to provide itself with working capital.

The authority herein granted is subject to the following conditions:-

1. Applicant shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.
2. The authority herein granted to issue stock shall become effective upon the date hereof.
3. The authority to issue bonds will not become effective until the Commission has authorized applicant to execute a mortgage or deed of trust to secure the payment of said bonds, nor until applicant has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is \$100.

4. Under the authority herein granted no stock or bonds  
may be issued subsequent to June 30, 1927.

IT IS HEREBY FURTHER ORDERED that Application No. 12876  
insofar as it involves the issue of \$25,300.00 of stock, be dis-  
missed without prejudice.

DATED at San Francisco, California, this 3d day  
of July, 1926.

H. H. Brundage

C. C. Beatty

Leon Whitell

Commissioners.

