

Decision No. 28132

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of NATIONAL ICE AND COLD STORAGE COMPANY OF CALIFORNIA, for an order authorizing applicant to execute and deliver a proposed instrument amending, supplementing and/or abrogating in certain particulars that certain First Mortgage dated December 1, 1912, executed by applicant to The Union Trust Company, Limited, and George E. Stevenson, Trustees, to secure the payment of \$15,000,000 of First Mortgage Six Per Cent Thirty Year Gold Bonds, and for the issuance and delivery under the terms, covenants and conditions of said proposed instrument amending, supplementing and/or abrogating in certain particulars said First Mortgage, of certain interest coupons, and also for an order authorizing applicant to enter into an agreement with Jessica Shewan, as the sole surviving executrix and/or trustee under the Last Will and Testament of James Shewan, deceased, for the refunding of certain obligations owing by the applicant to the Estate of James Shewan, deceased.

ORIGINAL

Application
No. 20,065.

Gavin McNab, Schmulowitz, Wyman, Aikins & Brune,
by Nat Schmulowitz, for applicant.

BY THE COMMISSION:

O P I N I O N

In general this is an application for an order authorizing National Ice and Cold Storage Company of California, hereinafter sometimes referred to as applicant, to execute a trust indenture amending its first mortgage of December 1, 1912, and to execute an agreement to refund certain indebtedness due the Estate of James Shewan.

Applicant is a corporation organized during 1912 under the laws of the State of California and now engaged in the ice and cold storage warehouse business in a number of communities in the state, its 1934 annual report showing plants being operated in Riverside, Los Angeles, San Francisco, Stockton, Marysville, Petaluma, Oakland and Watsonville.

The record shows that under date of December 1, 1912, applicant executed a trust indenture to secure the payment of a total authorized issue of \$15,000,000 of first mortgage six per cent bonds due December 1, 1942. Subsequently, as of June 1, 1932, applicant executed a supplemental indenture which provided, among other things, for the deferring to December 1, 1942, of the payment of the interest coupons due on June 1, 1932, December 1, 1932, June 1, 1933 and June 1, 1934. The execution of the supplemental indenture was authorized by the Commission by Decision No.25232, dated October 3, 1932, in Application No. 18428.

At present applicant has outstanding bonds of the face amount of \$5,424,115. In addition it is indebted to the Estate of James Showan in the amount of \$224,000, such indebtedness being represented by two six per cent demand notes, one for \$100,000 dated January 8, 1935, and the other for \$124,000 dated January 18, 1934. It appears that the notes were issued pursuant to the terms of an agreement dated June 1, 1932, and also authorized to be executed by said Decision No.25232.

Information on file with the Commission indicates that during the last several years the company's business has been conducted at a loss. Its annual reports for the calendar years 1932, 1933 and 1934 show its revenues and expenses and its interest and other income charges as follows:

<u>Item</u>	<u>1952</u>	<u>1953</u>	<u>1954</u>
Cold Storage Revenues	\$450,225.82	\$396,814.07	\$446,038.60
Cold Storage Expenses	<u>585,484.58</u>	<u>370,186.55</u>	<u>408,641.07</u>
Net Operating Revenues	46,739.24	26,627.52	37,397.53
Uncollectible Accounts	7,847.42	7,966.95	7,901.76
Taxes Assignable to Cold Storage	<u>27,935.54</u>	<u>25,862.64</u>	<u>19,543.12</u>
Net Operating Income	10,903.48	7,202.07*	9,952.65
Non-Utility Operating Revenues	810,469.67	742,801.71	942,632.65
Non-Utility Operating Expenses	<u>795,416.38</u>	<u>804,288.13</u>	<u>841,852.46</u>
Net Non-Utility Income	17,053.29	61,486.42*	100,780.19
Gross Corporate Income	27,961.77	68,688.49*	110,732.84
<u>Deductions:</u>			
Rent for Utility Property	31,718.88	31,718.88	16,400.32
Interest on Long Term Debt	207,072.00	219,136.90	205,446.90
Other Interest	19,849.19	6,433.03	17,829.14
Amortization	21,877.72	23,170.14	23,170.08
Miscellaneous	---	---	738.65
Total	280,517.79	280,458.95	263,585.09
Net Loss for Year	<u><u>\$252,556.02*</u></u>	<u><u>\$349,147.44*</u></u>	<u><u>\$152,852.25*</u></u>

* Indicates loss.

For the five months ending May 31, 1935, applicant reports a net loss after all charges of \$220,525.20.

The company's trust indenture provides that the holders of sixty-six per cent of the ourstanding bonds may sanction any agreement entered into between the trustees and the company, or between other parties under the provisions of the mortgage, for the purpose of postponing the time for payment of the principal or interest of the bonds, and for other purposes, and further provides that any action taken by the holders of sixty-six per cent of the bonds shall be binding on all the bondholders. The present application shows that a meeting of the bondholders was called in New York on April 30, 1935, at which time, we are advised, holders of \$2,836,707.60 of the outstanding bonds, or approximately eighty-three per cent, were present in person or represented by proxy and approved certain amendments to applicant's trust indenture.

To carry these amendments into effect a supplemental trust indenture has been prepared which, among other things, is designed to provide for the extension of the maturity date of the bonds from December 1, 1942, to December 1, 1952, and the reduction of the interest rate thereon from six per cent to three and one-half per cent per annum for the period from December 1, 1934 to December 1, 1939. It is planned that the corporate trustee will issue and attach the appropriate interest coupons to the bonds.

The supplemental indenture further provides that the company will create and maintain a sinking fund and will pay into it on June 1, 1940, and annually thereafter, a sum of money equal to seventy-five per cent of its net profits, which annual sum shall be not less than \$50,000 nor more than \$100,000. Another provision declares that so long as any bonds remain outstanding no dividends shall be declared or paid on any stock of the company

except with the consent of the holders of sixty-six per cent of the bonds at the time outstanding.

A copy of the proposed supplemental trust indenture has been filed with the application and is designated as Exhibit "A".

With respect to the \$224,000 indebtedness due the Estate of James Shewan, a proposed agreement, dated as of June 1, 1935, has been prepared under which it is provided, among other things, that the maturity date of the indebtedness will be extended to December 1, 1952, except that one-half of the aforementioned sinking fund payments are to be used in liquidation of said indebtedness, and that the interest will be reduced to three and one-half per cent per annum for the same period during which the interest on the bonds is to be reduced accordingly. The company agrees to execute and deliver from time to time such further evidence of the obligation of \$224,000 in the form of notes and renewals as will prevent the indebtedness from becoming barred by the statute of limitations. The Estate of James Shewan agrees to, and does by the agreement, subordinate the indebtedness of \$224,000, plus interest, to and in favor of any and all current loans or advances not exceeding at any time \$250,000.

A copy of the proposed agreement has been filed with the application and is designated as Exhibit "B".

It appears that the adjustment of the annual interest charges as here proposed on the outstanding bonds and notes will reduce applicant's fixed charges by approximately \$91,000 a year.

O R D E R

National Ice and Cold Storage Company of California having applied to the Railroad Commission for an order authorizing the execution of the instruments as indicated in the foregoing opinion, and the Commission having considered the company's request and being of the opinion that this is not a matter in which a public hearing is necessary and that the

application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the notes authorized herein is reasonably required by applicant,

IT IS HEREBY ORDERED that the National Ice and Cold Storage Company of California be and it hereby is authorized to execute and deliver an indenture substantially in the same form as that filed with the application herein as Exhibit "A" and to execute and deliver an agreement substantially in the same form as that filed with the application as Exhibit "B", provided that the authority herein granted to execute and deliver an indenture and an agreement is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said indenture and said agreement as to such other legal requirements to which they may be subject.

IT IS HEREBY FURTHER ORDERED that in evidence of the indebtedness due the Estate of James Shewan, National Ice and Cold Storage Company of California may issue its notes in the total principal amount of not exceeding \$224,000, and to renew said notes from time to time, as provided in the agreement herein authorized to be executed.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective from and after twenty (20) days from the date hereof.

Dated at San Francisco, California, this ¹⁹ day of July, 1935.

W. H. Carr

W. B. Harris

John R. Denton
Commissioners