

Decision No. 33281

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 parti-
culars that certain First Mortgage
dated December 1, 1912, executed by
applicant to The Union Trust Com-
pany, 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, sup-
plementing and/or abrogating in cer-
tain particulars said First Mortgage,
of certain interest coupons, and also
for an order authorizing applicant to
carry out an agreement with Henry L.
Salsbury as the sole surviving testa-
mentary trustee under the last will
and testament of James Shewan, de-
ceased.

ORIGINAL

Application No. 23493

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The Commission in Decision No. 33170, dated June 4, 1940, in the above entitled matter, recites that National Ice and Cold Storage Company of California, hereinafter sometimes referred to as the Company, is indebted to the Estate of James Shewan in the amount of \$224,000 evidenced by 3-1/2% promissory notes due December 1, 1952, and issued under the terms of an agreement dated June 1, 1935, as authorized by the Commission by Decision No. 28133, dated July 19, 1935.

It is of record that Henry L. Salsbury as the sole surviving successor trustee under the last will and testament of James Shewan, deceased, hereinafter sometimes referred to as the Shewan

Estate, has agreed to sell to the National Ice and Cold Storage Company of California, for the sum of \$125,000, that certain real property, together with the improvements thereon, the personal property therein situated and other personal property situated in the City of Oakland, to-wit:

"PORTION of Block 440, as said block is shown on 'Boardman's Map of Oakland and vicinity'-filed April 23, 1883, in Book 17 of Maps at page 14, in the office of the County Recorder of Alameda County, described as follows: BEGINNING at the intersection of the western line of Market Street with the northern line of 1st Street; running thence along said line of 1st Street North $74^{\circ} 02'$ West 184 feet; thence North $15^{\circ} 58'$ East 94 feet; thence North $74^{\circ} 02'$ West 66 feet to the eastern line of Myrtle Street; thence along the last named line North $15^{\circ} 58'$ East 175 feet; thence South $74^{\circ} 02'$ East 250 feet to the Western line of Market Street; thence along the last named line South $15^{\circ} 58'$ West 269 feet to the point of beginning."

A copy of the agreement between the Shewan Estate and the company is filed in this proceeding as Exhibit C.

The aforesaid property is now being used by the National Ice and Cold Storage Company of California under a lease agreement. If it acquires the properties at said cost of \$125,000 the Shewan Estate will cancel the \$224,000 of notes and deliver to the Company for cancellation 5857 shares of the common capital stock and 909 shares of the preferred capital stock of the National Ice and Cold Storage Company of California .

Of the \$125,000 purchase price, the National Ice and Cold Storage Company of California will pay \$12,500 in cash and for the balance, issue to the Shewan Estate its note for \$112,500 payable in 18 quarterly payments of \$6,250 each, plus interest at the rate of 5% per annum on the deferred payments. The payment of the note will be secured by a mortgage on the real property which is being transferred by the Shewan Estate to the Company and by a mortgage of chattels on the personal property. A copy of the

mortgage on the real property and a copy of the mortgage of chattels were filed in this proceeding on June 24. We have examined such documents and find the same to be in satisfactory form. There has also been filed with the Commission a copy of the proposed note which National Ice and Cold Storage Company of California desires to issue in part payment for the aforesaid properties.

FIRST SUPPLEMENTAL ORDER

The Commission having given further consideration to the request of the National Ice and Cold Storage Company of California for permission to issue a note for \$112,500, to execute mortgages to secure the payment of said note, and it being of the opinion that this is not a matter on which a hearing is necessary, that the money, property or labor to be procured or paid for by the issue of said note is reasonably required for the purpose herein stated, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, now, therefore,

IT IS HEREBY ORDERED that National Ice and Cold Storage Company of California may, after the effective date hereof and prior to October 1, 1940, issue its note for the sum of \$112,500 in part payment for the properties which it will acquire from the Shewan Estate, said note to be in the same form as the note filed in this proceeding on June 24, 1940.

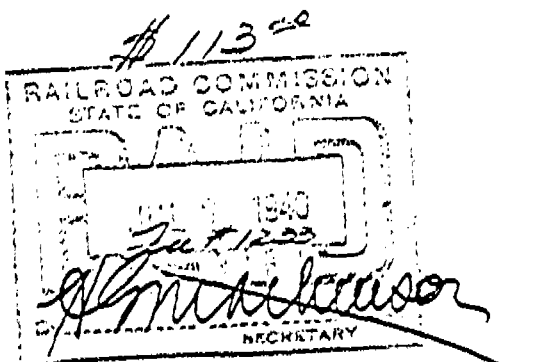
IT IS HEREBY FURTHER ORDERED that, after the effective date hereof and prior to October 1, 1940, National Ice and Cold Storage Company of California may, for the purpose of securing the payment of said note, execute a mortgage on real property and a mortgage of chattels, both to be substantially in the same form as the

mortgage and the mortgage of chattels filed in this proceeding on June 24, 1940, provided that the authority herein granted is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage on real property or of said mortgage of chattels as to such other legal requirements to which they may be subject.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective when National Ice and Cold Storage Company of California has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is One Hundred and Thirteen (\$113.00) Dollars.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the issue of said note and the execution of said mortgage on real property, and of said mortgage of chattels, National Ice and Cold Storage Company of California shall file with the Railroad Commission a certified copy of the note, a certified copy of the mortgage on real property and a certified copy of the mortgage of chattels issued and executed under the authority herein granted.

DATED at San Francisco, California, this 3rd day of July 1940.



Ray L. Rice
Frank D. ...
Ray ...
...
Justin J. ...
Commissioners.