

ORIGINAL

Decision No. 35667

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application

of

CRYSTAL ICE AND COLD STORAGE CO.
a corporation, and AUGUST
CARSTENSEN, an individual oper-
ating a cold storage business in
the City of Sacramento under the
name and style of CRYSTAL ICE AND
COLD STORAGE WAREHOUSE

For an order authorizing said
corporation to borrow money from
and execute its promissory note
to THE CAPITAL NATIONAL BANK OF
SACRAMENTO, a National Banking
Association, and to secure the
same by a Chattel Mortgage and
Deed of Trust heretofore executed
by it in favor of said bank; and
for an order authorizing the said
AUGUST CARSTENSEN to execute an
Agreement subordinating his lease
of the properties covered by said
Deed of Trust and Chattel Mortgage
to the lien of said additional
advance.

Application No. 25135

BY THE COMMISSION:

O P I N I O N

Under the authority granted by Decision No. 36301,
dated August 28, 1933, Crystal Ice and Cold Storage Co. leased
its properties and facilities used in the cold storage warehouse

business to August Carstensen. He is now the lessee of said properties and is conducting the business under the name of Crystal Ice and Cold Storage Warehouse. In this application as amended, August Carstensen asks permission to execute and deliver an agreement subordinating his lease to the lien of the deed of trust and chattel mortgage which Crystal Ice and Cold Storage Co. executed under the authority granted by Decision No. 33004, dated April 16, 1940. A copy of the subordination agreement is filed in this proceeding as Exhibit B. The subordination agreement reads in part as follows:

"In consideration of the sum of \$1.00 and other good and other valuable consideration in hand paid, receipt whereof is hereby acknowledged, the said August Carstensen as lessee in said lease, agrees that his lien, right and interest in the real property described in said lease is subject, subordinate to and second to the lien of the said deed of trust wherein The Capital National Bank of Sacramento, a national banking association, is beneficiary not only as to the original debt of \$40,000 secured thereby, but also as to the above mentioned additional advance of \$9,000 which is, according to its terms, also secured by said original deed of trust and that whatever rights that said August Carstensen had or may have in said real property described in said lease is subject, subordinate and secondary to the lien of said deed of trust and to all of the amounts secured thereby, including the \$40,000 original debt and the additional advance of \$9,000 hereinabove referred to and so evidenced and secured."

Under the authority granted by said Decision No. 33004, dated April 16, 1940, Crystal Ice and Cold Storage Co. issued its note for the sum of \$40,000, the principal of which is payable at the rate of \$2,000 on September 15, 1940; a like sum on the 15th day of December, 1940, and a like sum on the 15th day of March and December of each year until the 15th day of March, 1944, at which time the entire unpaid balance of the note, both principal and interest, is due and payable. The

note bears interest at the rate of 5% per annum, payable monthly. It is of record that through payments, Crystal Ice and Cold Storage Co. has reduced the principal of the note from \$40,000 to \$32,000.

The company will issue to The Capital National Bank of Sacramento its \$9,000, 5% demand note for the purpose of obtaining funds to pay indebtedness. The issue of this note, though the payment thereof is secured by said deed of trust and a chattel mortgage executed under the authority granted by Decision No. 33004, dated April 16, 1940, need not be authorized by the Commission.

O R D E R

The Commission having considered applicants' request and it being of the opinion that this is not a matter on which a hearing is necessary, and that this application, as amended, should be granted, therefore

IT IS HEREBY ORDERED that August Carstensen may, on or before November 1, 1942, execute a subordination agreement substantially in the same form as the subordination agreement on file in this proceeding as Exhibit B, provided that the authority herein granted to execute said subordination agreement 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 subordination agreement as to such other legal

requirements to which said subordination agreement may be subject.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof, and that within thirty (30) days after the execution of said subordination agreement, August Carstensen shall file with the Railroad Commission a true and correct copy of said subordination agreement.

Dated at San Francisco, California, this 11th day of August, 1942.

Justice F. Coe

H. B. Bates

Francis D. Haven

Richard L. ...

Commissioners.