

ORIGINAL

Decision No. 36444

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of THE EUREKA ICE & COLD STORAGE
COMPANY for an order authorizing
mortgage of real and personal
property.

Application No. 25652

BY THE COMMISSION:

OPINION

In this application, The Eureka Ice & Cold Storage Company asks permission to issue to Bank of America National Trust and Savings Association its 5% promissory note in the sum of \$19,000, and to execute a deed of trust and a mortgage of chattels to secure the payment of such note and such further sums as Bank of America National Trust and Savings Association may loan to applicant.

The Eureka Ice & Cold Storage Company, hereinafter sometimes referred to as applicant, is engaged in the ice and cold storage business in Eureka. For 1942 applicant reports operating revenues of \$41,134.08, of which \$16,491.62 was obtained from its cold storage warehouse business and \$24,642.46 from its ice and other business.

Applicant's assets and liabilities as of December 31, 1942 are reported as follows:

ASSETS

Cold storage property and equipment		\$213,033.73
Land	\$40,000.00	
Buildings and structures	86,072.12	
Wharf	2,550.01	
Engine room, machinery and equipment	79,567.92	
Storage lockers	2,231.06	
Automotive equipment	1,227.03	
Furniture and fixtures	<u>1,385.59</u>	
Cash		4,967.91
Accounts receivable		3,287.10
Ice inventory		300.00
Prepayments		848.77
Capital stock tax refund due		<u>125.00</u>
	Total	<u>\$222,562.51</u>

LIABILITIES

Capital stock		\$ 90,820.00
Note secured by mortgage		19,000.00
Notes unsecured		15,507.97
Accounts payable		1,760.50
Accrued liabilities		1,746.75
Other deferred credits		1,424.32
Reserve for accrued depreciation		128,756.44
Reserve for bad debts		304.28
Capital surplus		28,903.41
Earned surplus -- loss		<u>65,661.16</u>
	Total	<u>\$222,562.51</u>

Applicant's petition shows that on February 15, 1939, it issued to Bank of America National Trust and Savings Association, Humboldt County Branch, Eureka, its promissory 7% note for the principal sum of \$21,500. The note became due February 15, 1940. Applicant has regularly paid the interest due on the note and has paid \$2,500 on the principal, leaving \$19,000 of principal unpaid on May 5, 1943. The Bank of America National Trust and Savings Association has requested applicant to refund the balance due on said note through the issue of a new note in the principal amount of \$19,000, to be dated March 23, 1943, and to be payable two years after date, with interest at the rate of 5% per annum, payable monthly. The bank has also asked applicant to secure the payment of such note by the execution of a deed of trust and a mortgage of chattels. A copy of the deed of trust and a copy of the mortgage of chattels are filed in this application as Exhibit "C." The two instruments are being executed for the specific purpose of securing the payment of said \$19,000 note. Both of the instruments, however, provide that the lien thereof will secure the payment of additional sums advanced by Bank of America National Trust and Savings Association to applicant or which may now be owing by applicant to said bank. The lien of the proposed mortgage of chattels attaches to all of applicant's personal property and the lien of the deed of trust to four parcels of real property therein described.

The mortgage of chattels places a limitation of \$38,000 on the total indebtedness secured by it. While the order herein will authorize applicant to execute said mortgage of chattels and said deed of trust, we desire to call applicant's attention to Section 52 of the Public Utilities Act which limits applicant's

authority to issue notes or evidences of indebtedness without authorization from the Commission. The authority herein granted to execute a mortgage of chattels and a deed of trust does not authorize applicant to issue any note or other evidence of indebtedness, the issue of which must be authorized by the Commission under the provisions of Section 52 of the Public Utilities Act.

O R D E R

The Commission having considered applicant's request and it being of the opinion that this is not a matter on which a hearing is necessary; that the issue of the note herein authorized is reasonably necessary for the purpose of enabling applicant to refund the balance due on an outstanding note, and that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED as follows:

1. The Eureka Ice & Cold Storage Company may, after the effective date hereof and on or before September 1, 1943, issue to Bank of America National Trust and Savings Association, its promissory note in the principal amount of not exceeding \$19,000, to be dated March 23, 1943, and to be payable two years after date, with interest at the rate of 5% per annum, payable monthly; the proceeds of said note to be used to pay the balance due on the note issued by applicant on February 15, 1939, to which reference is made in this application.

2. After the effective date hereof and on or before September 1, 1943, The Eureka Ice & Cold Storage Company may

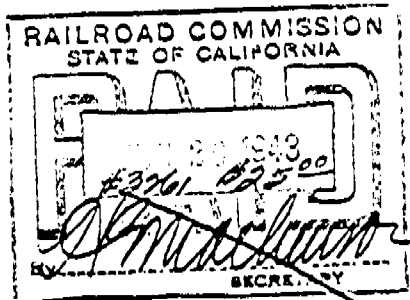
execute a mortgage of chattels and a deed of trust in substantially the same form as the mortgage of chattels and deed of trust on file in this proceeding as Exhibit "C," provided that the authority herein granted to execute a mortgage of chattels and a deed of trust is for the purpose of this proceeding 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 of chattels and of said deed of trust as to such other legal requirements to which said mortgage of chattels and said deed of trust may be subject, and provided further, that the authority herein granted to execute said mortgage of chattels and said deed of trust does not authorize The Eureka Ice & Cold Storage Company to issue any note or other evidence of indebtedness, the issue of which comes within the jurisdiction of the Commission under the provisions of Section 52 of the Public Utilities Act.

3. The authority herein granted will become effective when The Eureka Ice & Cold Storage Company has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is Twenty-five (\$25.00) Dollars.

4. Within thirty (30) days after the execution of the mortgage of chattels and the deed of trust herein authorized to be executed, The Eureka Ice & Cold Storage Company shall file with the Railroad Commission a true and complete copy of the mortgage of chattels and of the deed of trust executed, and of

the note issued under the authority herein granted, together with a statement showing the purpose for which it expended the moneys realized through the issue of said note.

Dated at San Francisco, California, this 22nd day of June, 1943.



Frank R. Havenner

Richard Lachse

James C. [Signature]
Commissioners