

ORIGINAL

Decision No. 42568

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application

of

CRYSTAL ICE AND COLD STORAGE CO.,
a corporation.

For an order authorizing it to borrow money and execute its promissory note to THE CAPITAL NATIONAL BANK OF SACRAMENTO, a National Banking Association, and to secure the same by Deed of Trust and Chattel Mortgage upon property leased in part for utility purposes; and

of

AUGUST CARSTENSEN an individual operating 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 him to execute an agreement subordinating his leasehold interest upon utility property to such Deed of Trust and Chattel Mortgage.

Application
No. 30074

O P I N I O N

This is an application for an order of the Public Utilities Commission authorizing Crystal Ice and Cold Storage Co., a corporation, hereinafter referred to as Crystal, to issue a promissory note in the principal amount of \$115,000.00 and to execute a deed of trust and a mortgage of chattels covering real property and equipment, and authorizing August Carstensen to execute an agreement subordinating his leasehold interest in such properties to

said deed of trust and mortgage of chattels.

The application shows that Crystal is the owner of an icemaking and refrigerating plant located at 16th and R Streets in Sacramento, together with the personal property and equipment used in and about said premises, and that heretofore, under authority granted by the Commission by Decision No. 26301, dated August 31, 1933, it leased to August Carstensen all that part of its business conducted as a public utility together with so much of its plant, tools, apparatus and equipment as is necessary for the conduct of said utility business by the lessee. The application further shows that said Carstensen, the lessee, has been and now is engaged in business as a cold storage warehouseman under the firm name and style of Crystal Ice and Cold Storage Warehouse.

Crystal reports that it has enlarged its plant, including the facilities covered by said lease, with funds borrowed from The Capital National Bank of Sacramento and that it now is indebted to said bank in the amount of \$115,000.00. It desires to refund and repay said bank indebtedness by the execution and delivery of a re-funding promissory note in the principal sum of \$115,000.00, payable in consecutive annual installments of \$11,500 each, with final maturity ten years after date, together with interest at the rate of 4-1/2% per annum, payment of said note to be secured by a deed of trust and a mortgage of chattels which will be liens on its properties, including those used by said Carstensen in his public utility business. It further reports that in order to enable it to give a first lien upon its real and personal properties it is necessary for Carstensen to subordinate his leasehold interest in said properties to the proposed deed of trust and mortgage of

chattels. A copy of the proposed subordination agreement is filed in this proceeding as Exhibit "D". It reads in part as follows:

"in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt whereof is hereby acknowledged, the undersigned, AUGUST CARSTENSEN, Lessee, agrees that his lien, right and interest in the real and personal properties covered by said lease and above described and referred to are and will be junior, subordinate and secondary to said deed of trust and chattel mortgage to the extent and insofar as said deed of trust and chattel mortgage will cover and affect the real and personal properties described in and covered by said lease."

Crystal does not have rates on file with the Commission as a public utility and in making this application it reports that it does not consider itself to be a public utility. However, a part of its property is leased to and is operated by Carstensen who is so engaged and who has rates on file with the Commission covering public utility service. This application is made by Crystal, it is stated, to comply with the requirement of the title insurance company to whom application has been made for title insurance.

O R D E R

Crystal Ice and Cold Storage Co. and August Carstensen having applied to the Public Utilities Commission for an order authorizing the issue of a note for \$115,000.00 and the execution of a deed of trust, a mortgage of chattels and a subordination agreement, and the Commission having considered the matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of said note is reasonably required for the purpose specified

herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED as follows:

1. Crystal Ice and Cold Storage Co., after the effective date hereof and on or before April 30, 1949, may issue a promissory note in the principal amount of \$115,000.00 for the purpose of refunding indebtedness of like amount referred to in the preceding opinion, and, to secure the payment of said note, may execute a deed of trust and a mortgage of chattels, said note, deed of trust and mortgage of chattels to be in, or substantially in, the same form as the note, deed of trust and mortgage of chattels filed in this proceeding as Exhibit "A", Exhibit "B" and Exhibit "C", respectively.

2. August Carstensen, after the effective date hereof and on or before April 30, 1949, may execute a subordination agreement in, or substantially in, the same form as the subordination agreement filed in this proceeding as Exhibit "D".

3. Within thirty (30) days after the issue of said note, Crystal Ice and Cold Storage Co. shall advise the Commission in writing of that fact and shall file a statement showing the purpose for which the note was issued.

4. The authority herein granted will become effective when Crystal Ice and Cold Storage Co. has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 1st day
of March, 1949.

R. T. Dutton
Frank Russell
Harold P. Kula

Commissioners

