

ORIGINAL

Decision No. 43805

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

MODESTO REFRIGERATING CO.,)
a Corporation,)

for authorization to execute note)
secured by existing Trust Deed)
affecting its public utility property.)
-----)

Application
No. 30892
(First Supplemental)

FIRST SUPPLEMENTAL OPINION

By Decision No. 38914, dated May 2, 1946, in Application No. 27461, the Commission authorized Modesto Refrigerating Co. to execute a deed of trust and to issue to Santa Fe Land Improvement Company its promissory note for \$1,162,300 payable in annual installments of \$58,115, or more, with interest at the rate of 4-1/2% per annum, for the purpose of paying indebtedness and of financing the cost of additional facilities. Said deed of trust, dated May 6, 1946, is presently outstanding. The principal amount of the indebtedness has been reduced to \$764,840 on November 30, 1949.

By Decision No. 43686, dated January 10, 1950, in Application No. 30892, the Commission authorized applicant to issue an additional note for \$300,000, payable in annual installments of \$15,000, or more, with interest at the rate of 4-1/2% per annum, for the purpose of financing the cost of real property and improvements, the payment of said note to be secured by the deed of trust dated May 6, 1946. At the time of filing Application No. 30892, applicant advised the Commission that it proposed to execute a supplemental indenture but it did not file a copy of the same nor receive permission to execute it.

Applicant now has filed in this proceeding a supplemental application containing a copy of the proposed supplemental deed of trust and a request for authority to execute and deliver the same. The proposed instrument places the property described in the original deed of trust, as well as the property to be acquired and constructed with the proceeds of the proposed loan of \$300,000, as security both for the original note and for the additional note. In addition, it contains an agreement on the part of applicant to pay to Santa Fe Land Improvement Company, an amount annually to be applied upon the principal of the two notes proportionately, equal to 1/3 of the net profits derived by applicant from the operation of its plants, properties and business for the preceding year, after payment of all federal and state taxes on income; such payments on the basis of annual profits to be regarded as prepayments on the notes and to be applied to the latest maturing of the fixed installments provided for by the terms of said notes, with the proviso that if in any year the applicant should be unable to pay in full the fixed installments under the said notes, payment made by the applicant in previous years, under the said agreement for the payment of 1/3 of its net profits, might be applied for the payment of the fixed installments then maturing.

FIRST SUPPLEMENTAL ORDER

Modesto Refrigerating Co. having filed its first supplemental application for permission to execute and deliver a supplemental deed of trust, and the Commission having considered the matter and being of the opinion that a public hearing thereon is not necessary, and that the request of applicant should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Modesto Refrigerating Co., after the effective date hereof and on or before June 30, 1950, may execute and deliver a supplemental deed of trust in, or substantially in, the same form as that filed with the first supplemental application as Exhibit A.

2. Within thirty (30) days after executing said supplemental deed of trust, applicant shall file with the Commission a copy thereof as actually executed.

3. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 14th day of February, 1950.

R. E. Indurran
Justice F. Calles
Isaac F. Russell
Harold P. Kula
Herbert H. Lott
Commissioners