

ORIGINAL

Decision No. 46601

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of	:	Application
BEALL REFRIGERATING CO., a California	)	No. 31992
Corporation, to Issue and Sell Capital	:	(First Supplemental)
Stock and to Assume Obligation.	)	
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FIRST SUPPLEMENTAL OPINION

By Decision No. 45254, dated January 16, 1951, Beall Refrigerating Co. was authorized to issue and sell, at par, not exceeding \$250,000 of its capital stock, and to assume the payment of indebtedness of \$185,000 represented by a note, a deed of trust and a mortgage of chattels, executed or to be executed by Albert W. Beall and Marion B. Beall, in order to meet the cost of acquiring real property and facilities in Santa Clara to be used for cold storage and other operations. By the same decision applicant was authorized to execute and deliver such other documents as may be required by The First National Bank of San Jose, in accordance with an agreement dated November 24, 1950, to give it a valid lien on refrigeration, storage, office and handling equipment.

In the first supplemental application filed in this proceeding on December 14, 1951, applicant reports that it has issued the capital stock and has assumed the indebtedness authorized by Decision No. 45254. It also states that it arranged to borrow an additional \$15,000 from said The First National Bank of San Jose and that it has executed and delivered to said bank, a note dated October 5, 1951, in the principal sum of \$15,000 payable on or before October 5, 1952, with interest at the rate of 4% per annum. A copy of said note is attached to the supplemental application as Exhibit A. No money has

been advanced as yet on said note, although it appears that applicant will have need for the same to finance construction costs and to provide working capital.

As of October 5, 1951, applicant executed a deed of trust and a mortgage of chattels. Applicant reports, however, that the mortgage of chattels which it executed to secure the \$185,000 note failed to recite that it also secured the \$15,000 note. Accordingly, it proposes to have said mortgage of chattels released of record and, upon receipt of the authority herein requested, to execute a new mortgage of chattels which will represent security for the \$185,000 note and the \$15,000 note dated October 5, 1951.

Applicant now asks the Commission to approve and ratify the execution of the deed of trust dated as of October 5, 1951, a copy of which instrument has been filed with its supplemental application as Exhibit B, and to authorize it to execute a mortgage of chattels in substantially the same form as that filed as Exhibit C. In our opinion, the deed of trust was authorized by the Commission in said Decision No. 45254, and the execution and delivery of the same by applicant was made in conformity with the terms of the order of the Commission then in effect, and it is unnecessary for applicant to obtain a subsequent order approving or ratifying its action under said order. The Commission's consent is not required for the issue of the \$15,000 note, the same being payable not later than twelve months after its date, and therefore the order herein will be limited to authorization for the execution of a new mortgage of chattels.

FIRST SUPPLEMENTAL ORDER

The Commission having considered this first supplemental application and being of the opinion that a public hearing thereon is

not necessary and that the matter should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Beall Refrigerating Co., after the effective date hereof and on or before June 30, 1952, may execute a mortgage of chattels in, or substantially in, the same form as that attached to the first supplemental application herein as Exhibit C.
2. Within thirty (30) days after the execution of said mortgage of chattels, applicant shall file with the Commission a copy of the same as actually executed.
3. The authority herein granted is effective upon the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of

January, 1952

*R. Z. Anderson*  
President

*Justice F. Gallen*  
*Harold A. Auld*

*Kenneth P. Potter*  
*W. E. Mitchell*  
Commissioners