

ORIGINAL

Decision No. 56901

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 BANK OF AMERICA
NATIONAL TRUST AND SAVINGS
ASSOCIATION, 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

CRYSTAL ICE AND COLD STORAGE
WAREHOUSE, a corporation, for an
order authorizing it to execute
an agreement subordinating its
leasehold interest upon utility
property to such Deed of Trust
and Chattel Mortgage.

Application No. 40214

O P I N I O N

This is an application for an order of the Commission
(1) authorizing Crystal Ice and Cold Storage Co., a corporation,
hereinafter referred to as the Ice Company, to issue a promissory
note in the principal amount of \$300,000 and to execute a deed of
trust and a mortgage of chattels covering real property and equip-
ment, and (2) authorizing Crystal Ice and Cold Storage Warehouse,
a corporation, hereinafter referred to as the Warehouse Company,

to execute an agreement subordinating its leasehold interest in certain properties owned by the Ice Company to the lien of said deed of trust and mortgage of chattels.

The application shows that the Ice Company is the owner of an icemaking and refrigerating plant and warehouse properties located at 16th and R Streets in Sacramento, together with personal property and equipment used in and about said premises. Pursuant to Decision No. 43522, dated November 15, 1949, in Application No. 30744, the Ice Company leased to the Warehouse Company, its subsidiary, so much of its plant, tools, apparatus and equipment as is necessary for the conduct of a cold storage warehouse business. The Warehouse Company has been conducting a public utility warehouse business in said premises since January 1, 1950.

It appears that the Ice Company is indebted to Crocker-Anglo National Bank on unsecured notes in the amount of \$80,000 and that, in addition, it has issued a long-term promissory note to the bank, pursuant to authorization granted by Decision No. 49809, dated March 23, 1954, in the principal amount of \$235,000, of which \$188,000 remains unpaid. The company now reports it desires to refinance its present indebtedness of \$268,000 and to consolidate the same with additional borrowings of \$32,000, and that it has made arrangements to issue a new note for \$300,000, said note to bear interest at the rate of 6% per annum and to be payable in monthly installments of \$3,333. It proposes to execute a deed of trust and a mortgage of chattels to secure the payment of the note, which instruments will cover its real and

personal properties, including those utilized by the Warehouse Company in its public utility operations. The additional borrowings will be utilized for plant improvements including engineering room automation and machine bookkeeping.

The Ice Company 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 the Warehouse Company, which does have warehouse rates on file with the Commission and is engaged in the public utility warehouse business, and because of this use for public utility purposes, this application is made by the Ice Company in order to comply with the requirements of the title insurer to whom application has been made for title insurance.

The Warehouse Company asks permission to subordinate its leasehold interest in the properties of the Ice Company to the lien of the proposed deed of trust and mortgage of chattels. A copy of the subordination agreement is on file in this application as Exhibit D. It reads in part as follows:

"NOW, THEREFORE, in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, receipt whereof is hereby acknowledged, the undersigned, CRYSTAL ICE AND COLD STORAGE WAREHOUSE, Lessee, agrees that its lien, right 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."

The arrangements made by applicants are similar to those under which they now are and for many years have been operating under authorization heretofore granted by the Commission. In our opinion there has been no adverse effect on the public interest and we will enter our order approving the present application.

The authorization herein granted shall not be construed to be a finding of the value of the properties referred to herein.

O R D E R

Crystal Ice and Cold Storage Co. and Crystal Ice and Cold Storage Warehouse having applied to the Public Utilities Commission for an order authorizing the issue of a note for \$300,000 and the execution of a deed of trust and 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 by the issue of said note is reasonably required for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Crystal Ice and Cold Storage Co., on and after the effective date hereof and on or before September 30, 1958, may issue its promissory note in the principal amount of \$300,000 and,

to secure the payment of said note, may execute a deed of trust and a mortgage of chattels, said note, said deed of trust and said 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 application as Exhibit A, Exhibit B and Exhibit C, respectively.

2. Crystal Ice and Cold Storage Warehouse, on and after the effective date hereof and on or before September 30, 1958, may execute a subordination agreement in, or substantially in, the same form as the subordination agreement filed in this application as Exhibit D.

3. Crystal Ice and Cold Storage Co. shall use the proceeds from the issue of said note to pay or refund outstanding indebtedness and to pay the cost of improving its properties as referred to in this application.

4. Within 30 days after the issue of said note, applicants shall file with the Commission a copy of the note, a copy of the deed of trust, a copy of the mortgage of chattels and a copy of the subordination agreement executed under the authority herein granted.

5. The authority herein granted will become effective when Crystal Ice and Cold Storage Co. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$112.

Dated at San Francisco, California, this 1st day of July, 1958.

E. Tom Fox
President
Robert E. Appleby
Paul S. Lintner
William J. Dale
Herbert J. Jensen
Commissioners

