

Decision No. 57609**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC INDUSTRIES, INC., a corporation,  
 and TRI-COUNTIES RICE, INC., a corporation,  
 to sell, and of FARMERS RICE GROWERS  
 COOPERATIVE, a corporation, to purchase  
 certain assets, including warehouse  
 property and equipment, and in connection  
 therewith for the latter to issue to a  
 lending agency its promissory notes  
 secured by chattel mortgages covering  
 such warehouse property and equipment.

Application No. 40514

O P I N I O N

Pacific Industries, Inc., (hereinafter referred to as Pacific) and a subsidiary thereof, Tri-Counties Rice Inc., (hereinafter referred to as Tri-Counties) request authority to sell and transfer warehouse property and equipment to Farmers Rice Growers Cooperative (hereinafter referred to as Cooperative).

The public utility property involved is that referred to in Decision No. 56655 in Application No. 39978. Said property is owned by Pacific and is located upon real property pursuant to a lease from Southern Pacific Company. The warehouse operations are conducted by Tri-Counties.

All warehouse properties and interest therein will be transferred to Cooperative for a consideration of \$1,162,408. Cooperative proposes to issue to Massachusetts Mutual Life Insurance Company its 6%, 15-year, first mortgage notes totalling \$1,000,000 and to secure said notes by a chattel mortgage of the assets being purchased.

Cooperative has been engaged in operating a rice drier and storage plant at West Sacramento, but has not operated a public warehouse. Cooperative has 500 members and proposes to provide a warehouse service to its members and incident thereto will also handle and store rice and rice products for nonmembers. Cooperative urges that it will not be a public utility within the meaning of Sections 216 and 239 of the Public Utilities Code and cites the exemption set forth in Section 239 that excludes any warehouse conducted by any nonprofit, cooperative association engaged in the handling or marketing of the agricultural products of its members. It therefore requests that it be adjudged not to be a public utility within the meaning of the Code; but if it should be adjudged to be a public utility that it then be authorized to issue its securities and execute chattel mortgages.

According to cooperative's proposal it intends to serve members and nonmembers. By extending service to nonmembers it exceeds the scope of the exemption set forth in Section 239 and the service proposed would be that of a public utility.

After consideration the Commission is of the opinion and so finds that the proposed sale would not be adverse to the public interest; that according to the allegations set forth in the application the service proposed by cooperative is that of a public utility and that the money, property or labor to be procured or paid for through the issue of the notes herein authorized is reasonably required for the purposes set forth herein and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. Applicants request that the effective date be the date hereof. A public hearing does not appear to be necessary.

O R D E R

Application having been filed and the Commission being informed in the premise,

IT IS ORDERED:

(1) That on or before May 1, 1959, Pacific Industries, Inc., and Tri-Counties Rice, Inc., may sell and transfer and Farmers Rice Growers Cooperative may purchase and acquire the warehouse properties above referred to.

(2) That within thirty days after the consummation of the transfer herein authorized, Farmers Rice Growers Cooperative shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(3) That on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved to show that Pacific Industries, Inc., and Tri-Counties Rice, Inc., have withdrawn or canceled and Farmers Rice Growers Cooperative has adopted or established as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61.

(4) That Farmers Rice Growers Cooperative may issue its 6%, 15-year, first mortgage notes in the amount of \$1,000,000.

The authority herein granted to issue notes will become effective when applicant has paid the fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$1,000. In other respects the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 10<sup>th</sup> day of November, 1958.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
14907  
NOV 23 1958  
BY