

ORIGINAL

Decision No. 66044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FARMERS' RICE GROWERS COOPERATIVE,)
 a corporation, for authorization to)
 purchase certain real property and)
 equipment and in payment thereof to)
 issue promissory notes to the seller,)
 to assume a promissory note of the)
 seller, secured by a Deed of Trust)
 upon the properties to be acquired)
 and to execute a second Deed of)
 Trust upon such properties in)
 favor of Seller.)

Application No. 45722
Filed August 29, 1963

O P I N I O N

This is an application for an order of the Commission authorizing Farmers' Rice Growers Cooperative to assume and issue evidences of indebtedness and encumbrance in connection with the purchase from Cal-Oro Rice Growers, Inc., of properties and equipment located at South Dos Palos in Fresno County.

Farmers' Rice Growers Cooperative operates as a public utility warehouseman in Colusa County. It is engaged primarily in nonutility activities as indicated by its annual report for the fiscal year ended August 31, 1962, which shows warehouse public utility operating revenues of \$75,246 as compared with nonutility operating revenues of \$17,413,299.

Cal-Oro Rice Growers, Inc., is a California cooperative corporation over which this Commission has not exercised jurisdiction. It has agreed to sell to applicant approximately 21 acres of real property located at South Dos Palos, together

with all improvements thereon consisting of a rice mill, warehouse, dryers, office, dwelling houses, shop, spur track and machinery and equipment, together with certain incidental assets. The purchase price of \$1,075,426.85 (disregarding the 85¢) is payable as follows:

Cash upon date of closing	\$350,000
Assumption of existing 5% obligation of Cal-Oro Rice Growers, Inc., to Bank of America National Trust and Savings Association, with final payment of \$194,000 due January 1, 1972. Secured by deed of trust and mortgage of chattels upon properties and assets constituting the subject of sale	466,000
Note payable in five annual installments, bearing interest at the rate of 6% per annum. Secured by a second deed of trust upon the real property to be acquired	134,426
Note payable in five annual installments without interest. Secured by a second deed of trust upon the real property to be acquired	<u>125,000</u>
Total	<u>\$1,075,426</u>

By Decision No. 59141, dated October 13, 1959, in Application No. 41464, the Commission exempted applicant from the provisions of Article 5, Chapter 4, Part 1, Division 1 of the Public Utilities Code, which article defines the jurisdiction of the Commission with respect to stock and security transactions. Although such decision followed a public hearing on an application involving applicant's capital stock, the order did not exclude notes and other evidences of indebtedness from the exemption.

Obviously, the proportion of applicant's public utility operations to its nonutility operations will become still smaller upon acquiring additional nonutility operations which will be located at South Dos Palos. Applicant is hereby placed on notice that if it should desire to begin to operate at South Dos Palos as a warehouseman defined by Section 239(b) of the Public Utilities Code, it must first obtain the certificate of public convenience and necessity required by Section 1051 of the Public Utilities Code.

Upon considering this matter we find that (1) said Decision No. 59141 exempted applicant from the provisions of the Public Utilities Code requiring it to obtain authority from this Commission to assume or issue evidences of indebtedness, which exemption is still in effect, and (2) in accordance with Section 851 of the Public Utilities Code, applicant may execute and assume deed of trust and mortgage of chattels obligations on the nonutility properties involved in this proceeding without obtaining authority to do so from this Commission. Based upon these findings we conclude that the application should be dismissed because of the exemption heretofore granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED that Application No. 45722 is hereby dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 24th day of September, 1963.

William L. Bennett
President
John S. Mitchell
Conrad B. Rago
George G. Grover
Fredrick B. Haloboff
Commissioners