

ORIGINAL

Decision No. 66513

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MITCHELL SILLIMAN COMPANY for authority to issue Deed of Trust to a total amount of \$60,000 upon its property at Salinas and to issue its Promissory Note in the total amount of \$60,000 for improvements and real estate at Salinas.

Application No. 45962  
Filed November 15, 1963

O P I N I O N

This is an application for an order of the Commission authorizing Mitchell Silliman Company, a corporation, applicant herein, to execute a deed of trust and to issue a \$60,000 note.

Applicant is a California corporation operating as a public utility warehouseman in portions of Monterey County. It reports that previously it issued a \$54,000 note in connection with the purchase from Pet Milk Company of a certain building located in Salinas, which is not used for public utility purposes.

The corporation did not obtain authority from the Commission to incur the \$54,000 indebtedness, although it appears that its failure to do so was through inadvertence and that when the applicable requirements of the Public Utilities Code were called to its attention, it forthwith filed the present application requesting the Commission to authorize a new note to enable it to obtain funds for paying the \$48,600 outstanding

balance on the unauthorized loan, and for providing \$11,400 for the installation of fire sprinkler systems in said building.

The new note will be in the principal amount of \$60,000, bearing interest at the rate of 6% per annum, in favor of United California Bank, and the principal will be payable at the rate of \$6,000 annually. Payment of the note will be secured by a deed of trust on nonutility property, which deed of trust, in accordance with Section 851 of the Public Utilities Code, does not require authorization by this Commission.

Section 825 of the Public Utilities Code declares void any note or other evidence of indebtedness of a public utility issued without approval of the Commission. However, the \$54,000 note was issued for a proper purpose and we will enter an order authorizing applicant to issue a new note to replace that issued without Commission authorization and to provide additional funds for said fire sprinkler systems.

We have considered this matter and are of the opinion, and find, that (1) applicant may execute a deed of trust on nonutility property without our authorization; (2) the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purposes specified herein; and (3) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

Based upon the foregoing findings we conclude that (1) the application, insofar as it seeks authority to execute a deed of trust, should be dismissed for want of jurisdiction; and (2) the application should be granted insofar as it seeks authority to issue a note.

O R D E R

IT IS ORDERED that:

1. Mitchell Silliman Company, a corporation, for the purposes set forth in this proceeding, may issue its new 6% note in favor of United California Bank in the principal amount of not to exceed \$60,000, which principal shall be payable at the rate of not to exceed \$6,000 annually.

2. Mitchell Silliman Company, a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is hereby made a part of this order.

3. This application, insofar as it seeks authority to execute a deed of trust, is dismissed for want of jurisdiction.

4. This order shall become effective when Mitchell Silliman Company, a corporation, has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$60.

Dated at San Francisco, California,  
this 27<sup>th</sup> day of December, 1963.

William W. Bennett  
President  
George H. Trover  
Fredrick B. Halbach  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
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By John