

ORIGINAL

Decision No. 67952

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)
THE EL REY MILLING CO., INC. FOR)
AN ORDER AUTHORIZING EXECUTION OF)
EVIDENCES OF INDEBTEDNESS AND)
ENCUMBRANCE OF PROPERTY)

Application No. 46947
Filed September 1, 1964

O P I N I O N

This is an application for an order of the Commission authorizing El Rey Milling Co. to execute a deed of trust and two mortgages of chattels, and to issue four notes in favor of Wells Fargo Bank in the aggregate principal amount of \$55,592.10.

Applicant is a California corporation engaged in business as a public utility warehouseman and related nonutility activities in King City. The company reports that during 1963 it issued three short-term notes having an aggregate outstanding balance of \$36,880, which it proposes to repay with a portion of the proceeds to be derived from a \$40,000 note repayable in annual installments of \$8,000, together with interest at the rate of 7% per annum, and secured by a mortgage of chattels. Applicant reports that it expended the proceeds derived from the short-term notes for making improvements and for operating its properties, and that it will use the \$3,120 balance of the \$40,000 long-term borrowing for additional working cash.

For the purpose of obtaining other funds utilized in making improvements and for general business expenses related to its properties, the corporation advises that on April 17, 1962, it executed a deed of trust and issued a 6% ten-year note in the amount of \$12,000 providing for payment of principal and interest in monthly installments of \$134, which documents were executed without first receiving authority to do so from this Commission. In this proceeding, the company seeks permission to execute a new deed of trust and to issue a new \$9,951.81 note which will reflect the outstanding balance of the \$12,000 unauthorized note.

Applicant also proposes to replace a 7% insurance premium financing note previously issued without Commission authorization by issuing a new note for the unpaid balance of \$4,743.54 repayable in quarterly installments of \$527.06. The company proposes further to execute a new mortgage of chattels and promissory note for \$896.75, which will represent the outstanding balance of another unauthorized document issued to finance the purchase of a vehicle, and which will be repayable in monthly installments of \$52.75 or more.

The application shows that the company issued and executed the unauthorized documents through inadvertence and with no intention of evading provisions of the Public Utilities Code.

The Commission has considered this matter and finds that: (1) the proposed note issues are for proper purposes; (2) Sections 825 and 851 of the Public Utilities Code declare void any long-term note or other evidence of indebtedness of a public utility, or encumbrance of public utility property, made without authority of the Commission; (3) the money, property or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required for the purposes specified herein; and (4) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

On the basis of the foregoing findings we conclude that the application should be granted. The authorization herein given is not to be construed as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. El Rey Milling Co., on or after the effective date hereof and on or before December 31, 1964, may issue a promissory note in the principal amount of not to exceed \$40,000 for the purposes specified in this proceeding, and may execute a mortgage of chattels, which documents shall be in the same form, or in substantially the same form, as those attached to the application as Exhibits B and C.

2. El Rey Milling Co., on or after the effective date hereof and on or before December 31, 1964, may issue new notes in the aggregate principal amount of not to exceed \$15,592.10 for the purposes set forth in this proceeding, and may execute a new deed of trust and a new mortgage of chattels. Said new documents shall be in the same form, or in substantially the same form, as those attached to the application, except as to principal amount, and shall be issued and executed in the place and stead of the instruments presently existing without authorization from the Commission.

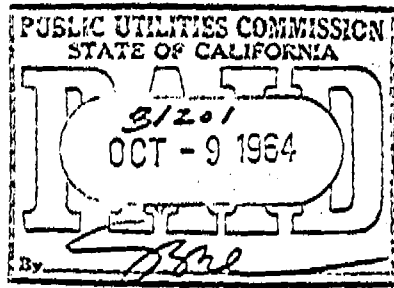
3. Within thirty days after the issue of the notes herein authorized, El Rey Milling Co. shall file with the Commission a copy of each note as actually issued.

4. This order shall become effective when El Rey Milling Co. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$56.

Dated at San Francisco, California, this 6th day of OCTOBER, 1964.

Frederick B. Hollisoff
President
George T. Crover
William B. Bennett

Commissioners



Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.