

Decision No. 83178

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of MERCHANTS REFRIGERATING)
COMPANY OF CALIFORNIA, a)
corporation, for authorization)
to transfer, and of MAYFAIR)
REFRIGERATING COMPANY, a)
corporation, to acquire public)
utility warehouse operative)
rights and properties at)
Santa Clara, California, and of)
MAYFAIR REFRIGERATING COMPANY)
for authorization to encumber)
public utility property and issue)
securities.)

Application No. 54976
(Filed June 19, 1974)
and Amendment
(Filed July 2, 1974)

O P I N I O N

Merchants Refrigerating Company of California seeks authority to sell and transfer to Mayfair Refrigerating Company the portion of its public utility warehouseman certificate of public convenience and necessity and related assets pertaining to operations at Santa Clara, and the latter seeks authority to execute and deliver a Deed of Trust and to issue 3,000 shares of its \$50 par value capital stock.

Merchants Refrigerating Company of California is a California corporation operating as a public utility warehouseman in Modesto, Salinas and Santa Clara, pursuant to the certificate of public convenience and necessity set forth in Appendix A of Decision No. 79892, dated April 4, 1972, in Application No. 53053. Mayfair Refrigerating Company is a California corporation incorporated on May 13, 1974.

Pursuant to an Agreement of Sale, and amendment thereto, filed in this proceeding, Merchants Refrigerating Company of California proposes to sell and transfer its Santa Clara operative right and related assets to Mayfair Refrigerating Company for \$400,000, of which \$100,000 would be payable in cash and \$300,000 would be evidenced by a promissory note to be issued by Mayfair Packing Company, transferee's proposed parent corporation. The note would be secured by a proposed Deed of Trust on the property to be transferred.

In addition, Mayfair Refrigerating Company proposes to issue 3,000 shares of its \$50 par value capital stock to Mayfair Packing Company, at par for cash, in order to provide \$50,000 working capital and \$100,000 to be applied toward the purchase price of the warehouse properties.

The application indicates that the officers and other key personnel of Mayfair Refrigerating Company have had many years of experience in the operation of refrigerated facilities and handling food commodities, and that it proposes to use operating personnel presently employed in the operation of the warehouse facilities.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock would be for proper purposes.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

On the basis of the foregoing findings we conclude that the application, as amended, should be granted. A public hearing is not necessary.

The order which follows will provide for, in the event the transfer is completed, the revocation of the warehouseman certificate presently held by Merchants Refrigerating Company of California and the issuance of certificates in appendix form to Merchants Refrigerating Company of California and to Mayfair Refrigerating Company.

Mayfair Refrigerating Company is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

In issuing this decision we place Mayfair Refrigerating Company and its shareholder on further notice that we do not regard the number of shares outstanding, the total par value of the shares, nor the dividends paid, as measuring the return it should be allowed to earn on its investment in plant, and that

this authorization shall not be construed as a finding of the value of the company's stock, property or operative right nor 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. On or before December 31, 1974, Merchants Refrigerating Company of California may sell and transfer the warehouseman operative right and property referred to in the application, as amended, to Mayfair Refrigerating Company.

2. Within thirty days after the transfer Merchants Refrigerating Company of California and Mayfair Refrigerating Company shall file with the Commission written acceptance of the certificates, and Mayfair Refrigerating Company shall file with the Commission a true copy of the bill of sale or other instrument of transfer.

3. Mayfair Refrigerating Company shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order

No. 61-Series. Failure to comply with the provisions of General Order No. 61-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Merchants Refrigerating Company of California and Mayfair Refrigerating Company authorizing them to operate as public utility warehousemen, as defined in Section 239(c) of the Public Utilities Code, for the operation of storage or warehouse floor space set forth in Appendices A and B, respectively, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity set forth in Appendix A of Decision No. 79892 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

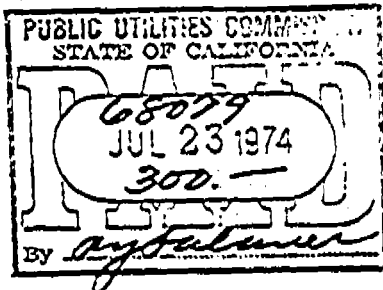
6. Mayfair Refrigerating Company shall maintain its accounting records in conformance with any applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

7. On or after the effective date hereof and on or before December 31, 1974, for the purposes set forth in this proceeding, Mayfair Refrigerating Company may issue and sell not exceeding 3,000 shares of its \$50 par value capital stock to Mayfair Packing Company at par for cash.

8. Mayfair Refrigerating Company shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

9. This order shall become effective when Mayfair Refrigerating Company has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$300.

Dated at San Francisco, California, this 23rd
day of JULY, 1974.



Vernon L. Stenger
President
William J. Agnew
W. J. Agnew
W. J. Agnew
W. J. Agnew
Commissioners

Merchants Refrigerating Company of California, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(c) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Modesto	221,156
Salinas	140,000

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 83178, Application No. 54976.

Mayfair Refrigerating Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(c) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Santa Clara	145,440

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

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