



Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

CONTENTS—Continued

United States Maritime Commission:	Page
Vendees or mortgagees of vessels, additional forms to be filed by	2143

of second-hand or used materials, provided that if sweat bands are not affixed to such hats or caps then such stamping must appear on the bodies of such hats or caps in conspicuous and legible terms which cannot be removed or obliterated without mutilating said bodies;

2. Representing in any manner that hats or caps made in whole or in part from old, used or second-hand materials are new or are composed of new materials.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2248; Filed, June 5, 1940;
11:25 a. m.]

[Docket No. 3408]

IN THE MATTER OF CRETE MILLS

§ 3.6 (a10) *Advertising falsely or misleadingly—Comparative data or merits*: § 3.6 (b) (2) *Advertising falsely or misleadingly—Competitors and their products—Competitors' products*: § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*: § 3.6 (x) *Advertising falsely or misleadingly—Results*: § 3.6 (y10) *Advertising falsely or misleadingly—Scientific or*

other relevant facts: § 3.6 (ff10) *Advertising falsely or misleadingly—Unique nature or advantages*: § 3.48 (b) (5) *Disparaging competitors and their products—Goods—Performance*: § 3.48 (b) (9) *Disparaging competitors and their products—Goods—Safety*. Representing, in connection with offer, etc., in commerce, of respondent's "Victor Chick Pellets" or any other similar chicken feed, that said product will grow chicks faster, healthier, cheaper and with less likelihood of disease or death than any other feed, regardless of price, or that any feed containing corn other than kiln-dried is dangerous to the health and life of chicks, or that chicks which are fed said products reach the egg-laying period in less time than those fed mash feed, or that said product will keep indefinitely, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Crete Mills, Docket 3408, May 28, 1940]

§ 3.6 (a10) *Advertising falsely or misleadingly—Comparative data or merits*: § 3.6 (b) (2) *Advertising falsely or misleadingly—Competitors and their products—Competitors' products*: § 3.6 (c) *Advertising falsely or misleadingly—Composition of goods*: § 3.6 (r) (1.1) *Advertising falsely or misleadingly—Prices—Comparative*: § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*: § 3.6 (x) *Advertising falsely or misleadingly—Results*: § 3.6 (y) *Advertising falsely or misleadingly—Safety*: § 3.6 (ff10) *Advertising falsely or misleadingly—Unique nature or advantages*: § 3.48 (b) (5) *Disparaging competitors and their products—Goods—Performance*: § 3.48 (b) (5.5) *Disparaging competitors and their products—Goods—Prices*. Representing, in connection with offer, etc., in commerce, of respondent's "Victor Chick Pellets" or any other similar chicken feed, that there is no possibility of any ingredient in said feed getting rancid or mouldy and causing chick deaths, or that pullets fed upon respondent's product will invariably lay eggs within any definite time or period earlier than chickens fed upon feeds of similar composition, or that said product costs less than other similar feeds, or that it excels all other feeds, regardless of price, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Crete Mills, Docket 3408, May 28, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before Miles J. Furnas and Arthur F. Thomas, examin-

ers of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, brief on behalf of the Commission filed herein (respondent not having filed brief or requested oral argument), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Crete Mills, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its chicken feed now known as "Victor Chick Pellets", or any other chicken feed containing substantially similar ingredients, whether sold under that name or any other name, in commerce as "Commerce" is defined in the Federal Trade Commission act, do forthwith cease and desist from representing, directly or by inference, that:

(1) Said product will grow chicks faster, healthier, cheaper and with less likelihood of disease or death than any other feed, regardless of price;

(2) Any feed containing corn other than kiln-dried is dangerous to the health and life of chicks;

(3) Chicks which are fed said product reach the egg-laying period in less time than those fed mash feed;

(4) Said product will keep indefinitely;

(5) There is no possibility of any ingredient in the feed getting rancid or mouldy and causing chick deaths;

(6) Pullets fed upon respondent's product will invariably lay eggs within any definite time or period earlier than chickens fed upon feeds of similar composition;

(7) Said product costs less than other similar feeds, or that respondent's product excels all other feeds, regardless of price.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2249; Filed, June 5, 1940;
11:25 a. m.]

[Docket No. 4049]

IN THE MATTER OF THE HYDROSAL COMPANY

§ 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials*: § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*: § 3.6 (x) *Advertising falsely or misleadingly—Results*: § 3.6 (dd10)

Advertising falsely or misleadingly—Success, use or standing: § 3.18 Claiming indorsements or testimonials falsely. Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of respondent's "Hydrosal Liquid" and "Hydrosal Ointment", or other similar medicinal preparations, which advertisements represent, directly or through implication, that said preparations possess any remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, poison ivy, or disorders characterized by or associated with pimples, skin outbreaks or itches, or possess any therapeutic value in the treatment of such conditions in excess of affording temporary relief from the symptom of itching usually accompanying or associated with such disorders, or are in general use by the medical profession or hospitals, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, The Hydrosal Company, Docket 4049, May 28, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all of the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Hydrosal Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement by means of the United States mails, or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondent's medicinal preparations now designated "Hydrosal Liquid" and "Hydrosal Ointment", or any other preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same names or any other name or names, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade

Commission Act of said preparations, which advertisements represent, directly or through implication, that respondent's said preparations possess any remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, poison ivy, or disorders characterized by or associated with pimples, skin outbreaks or itches; or that said preparations possess any therapeutic value in the treatment of such conditions in excess of affording temporary relief from the symptom of itching usually accompanying or associated with such disorders; or that said preparations are in general use by the medical profession or hospitals.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2250; Filed, June 5, 1940; 11:26 a. m.]

TITLE 26—INTERNAL REVENUE
CHAPTER I—BUREAU OF INTERNAL REVENUE
[T. D. 4973]
INCOME TAX

AMENDING ARTICLE 165-1 OF REGULATIONS 101, AND SECTION 19.165-1 OF REGULATIONS 103, RELATING TO EMPLOYEES' TRUSTS

To Collectors of Internal Revenue and others concerned:

Paragraph (a) of article 165-1 of Regulations 101 [§ 9.165-1, Title 26, Code of Federal Regulations, 1939 Sup.] and paragraph (a)¹ of § 19.165-1 of Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] are each amended to read as follows:

"(a) *Plans and trusts for employees.* A 'stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of some or all of his employees' is a definite written program and arrangement communicated to such employees, solely designed and applied to enable such employees to share in the capital or profits of such employer's trade or business or to provide for the livelihood of such employees upon their retirement from employment. A 'trust forming part of a stock bonus, pension, or profit-sharing plan' is a trust formed and availed of solely to aid in the proper execution of one of the plans defined in the preceding sentence. This phrase includes only trusts created for the exclusive benefit of employees, and does not include devices for distributing

¹ 5 F.R. 504.

profits to shareholders. All the surrounding and attending circumstances and the details of the plan will be indicative of whether it is a bona fide stock bonus, pension, or profit-sharing plan for the exclusive benefit of employees within the meaning of section 165."

(This Treasury Decision is issued under the authority contained in sections 62 and 165 of the Revenue Act of 1938 (52 Stat. 480, 518; 26 U.S.C., Sup. 62, 165); and sections 62 and 165 of the Internal Revenue Code (53 Stat. 32, 67).)

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 3, 1940.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40-2246; Filed, June 5, 1940; 10:25 a. m.]

TITLE 31—MONEY AND FINANCE:
TREASURY

CHAPTER I—MONETARY OFFICES

PART 144—GENERAL LICENSE NO. 14 UNDER EXECUTIVE ORDER NO. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.

A general license is hereby granted authorizing banking institutions within the United States to make all payments, transfers and withdrawals from accounts in the name of any of the following: Curaçoesche Bank, Willemstad, Curaçao; Maduro & Curiel's Bank, Willemstad, Curaçao; Edwards Henriquez & Co., Willemstad, Curaçao; and Aruba Bank, Oranjestad, Aruba.

Banking institutions within the United States making such payments, transfers, or withdrawals shall file promptly with the appropriate Federal Reserve bank weekly reports showing the details of the transactions during such period.*

[SEAL] D. W. BELL,
Acting Secretary of the Treasury.

JUNE 4, 1940.

[F. R. Doc. 40-2244; Filed, June 5, 1940; 10:25 a. m.]

PART 145—GENERAL LICENSE NO. 15 UNDER EXECUTIVE ORDER NO. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.

A general license is hereby granted authorizing banking institutions within the United States:

*Part 144; Sec. 5 (b), 40 Stat. 415 and 966; Sec. 2, 48 Stat. 1; Public Resolution No. 69, 76th Congress; 12 U. S. C. 95a; E.O. 6560, Jan. 15, 1934; E.O. 8389, April 10, 1940; E.O. 8405, May 10, 1940; Regulations, April 10, 1940, as amended, May 10, 1940.

(1) To issue, confirm or advise import letters of credit in favor of exporters in the Netherlands East Indies to finance imports therefrom into the United States, and to accept and pay drafts drawn by such exporters under such letters of credit; and

(2) To issue, confirm or advise export letters of credit in favor of exporters within the United States to finance exports therefrom to the Netherlands East Indies; to accept and pay drafts drawn by such exporters under such letters of credit; and to reimburse such banking institutions for payments under such letters of credit.

The issuance and transfer of documents of title in connection with such import or export letters of credit in accordance with the instructions of the persons entitled to issue such instructions are also hereby authorized.

Banking institutions issuing, confirming or advising letters of credit or accepting or paying drafts drawn, and all persons (including banking institutions) issuing or transferring documents of title pursuant to this general license, shall file promptly with the appropriate Federal Reserve bank weekly reports showing the details of the transactions during such period.

For the purpose of this general license the Netherlands East Indies shall be deemed to include the following: Java and Madura, Sumatra, Riouw-Lingga archipelago, Banka, Billiton, Celebes, Borneo (West, South and East Divisions), Timor archipelago, Bali and Lombok, Lesser Sunda Islands and Dutch New Guinea.*

[SEAL] D. W. BELL,
Acting Secretary of the Treasury.
JUNE 4, 1940.

[F. R. Doc. 40-2245; Filed, June 5, 1940;
10:25 a. m.]

TITLE 50—WILDLIFE

CHAPTER I—BUREAU OF BIOLOGICAL SURVEY

PART 23—SOUTHWEST REGION NATIONAL WILDLIFE REFUGES

WICHITA MOUNTAINS WILDLIFE REFUGE, OKLAHOMA

MAY 29, 1940.

Pursuant to authority contained in regulation 2 of the regulations effective December 2, 1936,¹ for the administration of the Wichita Mountains Wildlife Refuge, Oklahoma, it is hereby ordered as follows:

§ 23.969 *Suspending fishing in certain waters within the Wichita Moun-*

*Part 145; Sec. 5 (b), 40 Stat. 415 and 966; Sec. 2, 48 Stat. 1; Public Resolution No. 69, 76th Congress; 12 U.S.C. 95a; E.O. 6560, Jan. 15, 1934; E.O. 8389, April 10, 1940; E.O. 8405, May 10, 1940; Regulations, April 10, 1940, as amended May 10, 1940.

¹ 1 F.R. 2080.

tains Wildlife Refuge, Oklahoma. The permission contained in paragraph (2) of § 23.969 (a) of the special order of May 25, 1939,² to fish in Jed Johnson Lake, that part of Rush Lake east of the big-game fence, Little Medicine Creek within the refuge boundary, and that part of Elmer Thomas Lake situated within the refuge boundary is hereby suspended during the year 1940.

W. C. HENDERSON,
Acting Chief.

[F. R. Doc. 40-2240; Filed, June 5, 1940;
9:24 a. m.]

CHAPTER II—BUREAU OF FISHERIES

PART 202—ALASKA FRESH-WATER FISHERIES REGULATIONS

- | | |
|--------|--|
| Sec. | |
| 202.1 | Definition, Alaska game fish. |
| 202.2 | Use of nets, traps, or set lines prohibited; exceptions. |
| 202.3 | Use of explosives in taking fish is prohibited. |
| 202.4 | Waters in which the taking of game fish is prohibited, except with artificial lures. |
| 202.5 | Open season for fishing in Russian River, Buskin River, and tributary waters. |
| 202.6 | Open season for fishing in Dewey Lakes and Salmon Creek Reservoir. |
| 202.7 | Limitations on daily catch and possession of game fish; exceptions. |
| 202.8 | Commercial fishing for fresh-water game fish prohibited. |
| 202.9 | Waters in which commercial fishing for Dolly Varden trout is prohibited. |
| 202.10 | Wanton waste of food or game fish prohibited. |
| 202.11 | Penalties for violation of fresh-water fisheries regulations. |

§ 202.1 *Definition, Alaska game fish.* Game fish in Alaska are deemed to include the following species:

- (a) Rainbow trout (*Salmo iridius*).
- (b) Steelhead trout (*Salmo gairdneri*).
- (c) Cutthroat trout (*Salmo clarkii*).
- (d) Eastern brook trout (*Salvelinus fontinalis*).
- (e) Grayling (*Thymallus signifer*)*.

§ 202.2 *Use of nets, traps, or set lines prohibited; exceptions.* Fishing for game fish in the fresh waters of Alaska by means of nets, traps, or set lines, except for personal use, is prohibited: *Provided*, That this shall not be construed to prohibit the use of landing nets to assist in landing game fish taken by lawful means.*

§ 202.3 *Use of explosives in taking fish is prohibited.* The use or placement of any explosive in the waters of Alaska for the purpose of taking fish is prohibited.*

§ 202.4 *Waters in which the taking of game fish is prohibited, except with*

² 4 F.R. 2198.

*§§ 202.1 to 202.10, inclusive, issued under the authority contained in sec. 1, 44 Stat. 752; 48 U.S.C. 221. Whenever there is special authority for a specific section such authority will appear at the end of the section.

artificial lures. In Russian River, flowing into Kenai River, and in Buskin River, near Kodiak, and all lakes and tributaries thereof, game fish may be taken only by means of artificial lures.*

§ 202.5 *Open season for fishing in Russian River, Buskin River, and tributary waters.* It is prohibited to fish for, catch, or kill any game fish in Russian River, flowing into Kenai River, and in Buskin River, near Kodiak, and all lakes and tributaries thereof, except during the period from June 5 to September 30, both dates inclusive.*

§ 202.6 *Open season for fishing in Dewey Lakes and Salmon Creek Reservoir.* It is prohibited to fish for, catch, or kill any game fish in Dewey Lakes, near Skagway, and in Salmon Creek Reservoir, near Juneau, except during the period from May 1 to September 30, both dates inclusive.*

§ 202.7 *Limitations on daily catch and possession of game fish; exceptions.* No one shall take in any one day from the fresh waters of Alaska more than a combined total of 25 game fish or more than 25 pounds and 1 game fish of all species, and no person shall have in his possession at any one time more than a combined total of 50 game fish of all species or more than 50 pounds and 1 game fish of all species: *Provided*, That in Russian River, flowing into Kenai River, and in all other lakes and streams of Kenai Peninsula, and in Buskin River, near Kodiak, and its tributaries and lakes, no person shall take in any one day more than a combined total of 15 game fish of all species or more than 10 pounds and 1 game fish of all species, and no person shall have in his possession at any one time more than a combined total of 30 game fish of all species or more than 20 pounds and 1 game fish of all species: *Provided further*, That these bag limits shall not apply to game fish taken for personal use or dog feed by native Indians and Eskimos or other persons when in need of such food.*

§ 202.8 *Commercial fishing for fresh-water game fish prohibited.* All commercial fishing for game fish, including fishing for feed for fur-bearing animals, is prohibited in the streams and lakes of Alaska.*

§ 202.9 *Waters in which commercial fishing for Dolly Varden trout is prohibited.* All commercial fishing for Dolly Varden trout (*Salvalinus malma*), including fishing for feed for fur-bearing animals, is prohibited in the streams and lakes of Alaska east of 138 degrees west longitude.*

§ 202.10 *Wanton waste of food or game fish prohibited.* It is unlawful for any person wantonly to waste or destroy any food or game fish taken or caught in any of the waters of Alaska.*

§ 202.11 *Penalties for violation of fresh-water fisheries regulations.* Any person who violates any of the provisions of these regulations shall, upon conviction therefor, be punished by a

fine or imprisonment, or by both such fine and imprisonment, as provided for in section 6 of the act of June 6, 1924. (Sec. 6, 43 Stat. 466; 48 U.S.C. 226)

HAROLD L. ICKES,
Secretary of the Interior.

MAY 28, 1940.

[F. R. Doc. 40-2241; Filed, June 5, 1940; 9:24 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket Nos. 506-FD, 524-FD, 606-FD, 1163-FD, 1188-FD.]

IN THE MATTER OF THE APPLICATIONS OF PUBLIC SERVICE COMPANY OF INDIANA FOR EXEMPTION

NOTICE OF AND ORDER FOR HEARING

Applications, pursuant to the provisions of the second paragraph of section 4-A of the Bituminous Coal Act of 1937, having been filed by the above-named party with the National Bituminous Coal Commission, which has been succeeded by the Bituminous Coal Division:

It is ordered, That hearings on such matter be held on June 18, 1940, at 10 o'clock, in the forenoon of that day at a hearing room of the Bituminous Coal Division, Room 225, Post Office Building, Indianapolis, Indiana.

It is further ordered, That W. A. Cuff, or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at such hearings in such matters. The officer so designated to preside at such hearings is hereby authorized to conduct said hearings separately or to consolidate them, to administer oaths and affirmations, examine witnesses, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendations of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such applicant and to any other person who may have an interest in such proceeding. Any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Bituminous Coal Division on or before June 14, 1940.

The matter concerned herewith is in regard to applications filed by the Public Service Company of Indiana for exemption from the provisions of Section 4 of the Bituminous Coal Act of 1937. The applicant alleges in each of its applications, docketed numbers 506-FD, 524-FD, and 606-FD, that through the

instrumentality of Howard Prince, acting as an independent contractor, it is producing coal from certain coal rights held by it in Knox County, Indiana, and in each of its applications, docketed numbers 1163-FD and 1188-FD, that through the instrumentality of Howard Prince, and Kerzan and Richardson, the latter being co-partners doing business as the Edwardsport Excavating Company, acting as independent contractors, it is producing coal from certain coal rights held by it in said Knox County, Indiana, all of which coal is consumed by it in the generation of electrical energy at its power plant located at Edwardsport, Indiana. Docket No. 506-FD relates to coal mined from tracts of land known as the Bryce B. Reeve Farm and the Gottlieb Hammelman Farm; Docket No. 524-FD relates to coal mined from a tract of land known as the D. Frank Culbertson Farm; Docket No. 606-FD relates to coal mined from a tract of land known as the Joseph T. Kirchoff Farm; Docket No. 1163-FD relates to coal mined from tracts of land known as the William Luetkemeier Farm and the Fred Kahre Farm; and Docket No. 1188-FD relates to coal mined from a tract of land known as the Gottlieb Linneweber Farm. Each of the applications prays that an order of exemption, as provided for in and by the second paragraph of Section 4-A of the Bituminous Coal Act of 1937, be entered in respect to the coal taken from the foregoing tracts of land, the same to be produced and used by the applicant as stated in the applications.

Dated, June 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-2243; Filed, June 5, 1940; 10:12 a. m.]

[Docket No. 1225-FD]

IN THE MATTER OF THE APPLICATION OF CITY OF INDIANAPOLIS FOR EXEMPTION

NOTICE OF AND ORDER FOR HEARING

An application, pursuant to the provisions of the second paragraph of section 4-A of the Bituminous Coal Act of 1937, having been filed by the above-named party with the Bituminous Coal Division;

It is ordered, That a hearing on such matter be held June 24, 1940, at 10 o'clock, in the forenoon of that day at a hearing room of the Bituminous Coal Division, Room 225, Post Office Building, Indianapolis, Indiana.

It is further ordered, That W. A. Cuff or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at said hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses,

compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such applicant and to any other person who may have an interest in such proceeding. Any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Bituminous Coal Division on or before June 20, 1940.

The matter concerned herewith is in regard to the application filed by the City of Indianapolis for exemption from the provisions of Section 4 of the Bituminous Coal Act of 1937. The applicant alleges that through the instrumentality of a wholly owned subsidiary, the Milburn By-Products Coal Company, a West Virginia corporation, it is producing coal from a mine owned by said subsidiary company and located at Milburn, Fayette County, West Virginia. The applicant alleges that some of the coal so produced is consumed in the manufacture of artificial gas by the Citizens Gas and Coke Utility, a public trust operated by the Department of Utilities of the applicant in Indianapolis, Indiana; and applicant alleges that such coal so consumed is exempt from the provisions of section 4 of the Bituminous Coal Act of 1937 by virtue of Section 4, II (1) thereof.

Dated, June 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-2242; Filed, June 5, 1940; 10:12 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4087]

CAROLINE R. MACHER AND ROBERT J. MACHER, INDIVIDUALLY AND TRADING AS MACHER WATCH & JEWELRY CO., AND AS WHOLESALE WATCH & JEWELRY CO.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A. Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in

this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 13, 1940, at nine o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-2247; Filed, June 5, 1940;
11:25 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-52]

IN THE MATTER OF CAROLINA POWER & LIGHT COMPANY

ORDER APPROVING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of May, A. D. 1940.

Carolina Power & Light Company, having filed an application pursuant to section 6 (b) for an exemption from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935 of the issue and private sale of \$46,000,000, principal amount of its First Mortgage Bonds, 3¾% Series due 1965;

A public hearing having been held after appropriate notice; the Commission having considered the record and having made and filed its findings and opinion herein;

It is ordered, That the application for exemption be and the same hereby is approved, subject, however to the following conditions:

(1) That the transaction described in the application shall be carried out substantially in compliance with the terms and conditions of the application and order;

(2) That such exemption shall immediately terminate without further order of this Commission if at any time the authorizations of the Utilities Commission of North Carolina or the Public Service Commission of South Carolina shall be revoked or otherwise terminated;

(3) That within ten days after the completion of the transaction the applicant shall file with this Commission a certificate of notification stating that the issue and sale of the bonds have been effected in accordance with the terms and conditions of the application and order;

(4) That when all expenses incurred in connection with the issue and sale of the proposed bonds and the preparation and prosecution of the application concerned with the present transaction shall be actually paid, Carolina shall file a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, the accounts charged and a detailed description of the services rendered for which such payments were made;

(5) That Carolina shall not pay more than \$50,000 to the agents who acted for or aided it in the negotiations for the sale of, and the sale, of the proposed bonds: *Provided, however*, That Carolina or the agents may apply for a rehearing in this matter within ten days from the date of this order;

(6) That Carolina shall not pay more than \$15,000 to counsel for the purchasers of the proposed bonds: *Provided, however*, That Carolina or counsel for the purchasers may apply for a rehearing in this matter within ten days from the date of this order;

(7) So long as any of the First Mortgage Bonds, 3¾% Series due 1965, shall be outstanding, Carolina shall not declare or pay any dividends (other than dividends payable in shares of its common stock) on any shares of its common stock, nor shall Carolina make any other distribution on its common stock or purchase or otherwise retire any shares of its common stock out of net income available for such purpose unless the earned surplus after making such declaration, payment, distribution, purchase, or retirement is equal to or greater than the sum of (1) \$3,200,000, approximately the earned surplus as set forth in the pro forma balance sheet of March 31, 1940, and (2) an accumulative amount equal to \$650,000 per annum, beginning June 1, 1940: *Provided, however*, That such earned surplus required to remain after declaration or payment of such dividends or after such distribution, purchase, or retirement may be reduced for the purpose of this computation by the amount of (1) any surplus adjustments resulting from the writing down or writing off of the excess of carrying value of property now owned by Carolina over the original cost of such property when first devoted to public use, and (2) any other surplus adjustments otherwise properly applicable to earned surplus. The provisions contained in this numbered paragraph shall be subject to modification or revocation in whole or in part by this Commission at any time by its own motion or upon application of Carolina.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2251; Filed, June 5, 1940;
11:35 a. m.]

[File No. 31-379]

IN THE MATTER OF H. M. BYLLESBY & COMPANY

ORDER DENYING APPLICATIONS

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1940.

H. M. Byllesby & Company having filed an application pursuant to section 2 (a) (7) for an order declaring it not to be a holding company under section 2 (a) (7) (A), and in the alternative having applied for exemption pursuant to sections 3 (a) (3) and 3 (a) (5) of the Act;

Public hearings having been held thereon after appropriate notice; requests for specific findings of fact and briefs having been filed; oral argument having been had before the Commission; and the Commission, after duly considering the record, having issued its findings and opinion in the matter:

It is ordered, That such applications of H. M. Byllesby & Company be, and they hereby are denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2253; Filed, June 5, 1940;
11:35 a. m.]

[File No. 31-420]

IN THE MATTER OF THE BYLLESBY CORPORATION

ORDER DENYING APPLICATIONS

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1940.

The Byllesby Corporation having filed an application pursuant to section 2 (a) (7) for an order declaring it not to be a holding company under section 2 (a) (7) (A), and in the alternative having applied for exemption pursuant to sections 3 (a) (3) and 3 (a) (5) of the Act;

Public hearings having been held thereon after appropriate notice; requests for specific findings of fact and briefs having been filed; oral argument having been had before the Commission; and the Commission, after duly considering the record, having issued its findings and opinion in the matter;

It is ordered, That such applications of The Byllesby Corporation be, and they hereby are denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2252; Filed, June 5, 1940;
11:35 a. m.]

[File No. 70-54]

IN THE MATTER OF NORTHERN INDIANA
PUBLIC SERVICE COMPANY, NORTHERN
INDIANA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of June, A. D. 1940.

Applications pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 17, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearings will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 14, 1940.

The matter concerned herewith is in regard to the proposed exchange by Northern Indiana Public Service Company of (a) 6.35 miles of 33 kv. electric transmission lines from Akron, Indiana, south through Gilead, valued at \$13,-

208.88; (b) 3.35 miles of 33 kv. electric transmission lines at Logansport, Indiana, valued at \$5,716.07; (c) 26 wood poles at Akron, Indiana, valued at \$574.21; (d) 2,640 feet of 4 inch gas mains at Huntington, Indiana, valued at \$1,386.80; and (e) \$42,500.45 cash with Northern Indiana Power Company for (a) 12.29 miles of 33 kv. electric transmission lines from Plymouth, Indiana, to the south line of Marshall County at Mentone Junction, valued at \$32,102.28; (b) 10.08 miles of 33 kv. electric transmission lines from Mentone Junction east to Mentone, Indiana, valued at \$30,376.80; (c) Electrical metering equipment at Argos, valued at \$151.56; and (d) Electrical metering equipment at Bourbon Junction, valued at \$755.77. Northern Indiana Public Service Company, the owner, also proposes to give and to grant to Northern Indiana Power Company, licensee, the right to jointly use the poles of the 33 kv. electrical transmission line from Argos, Indiana, southerly and southeasterly along U. S. Road 31 to the south line of Marshall County and thence east along the public highways and streets to Mentone, Indiana, for annual rentals ranging from \$0.75 per 25-foot pole to \$2.50 per 55-foot pole. Applicants have designated Section 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-12F-1 adopted thereunder as applicable to the above transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2255; Filed, June 5, 1940;
11:54 a. m.]

UNITED STATES MARITIME COMMISSION.

ADDITIONAL FORMS OF STATEMENTS TO BE
FILED BY VENDEES OR MORTGAGEES OF
VESSELS¹

By the form of oath of an officer of an incorporated company, approved by

¹This form affects § 221.11 of Title 46 of the Code of Federal Regulations regarding form of declaration to be filed by vendees, mortgagees or transferees of vessels.

the Maritime Commission under Section 40, Shipping Act, 1916, for filing by a corporate owner or mortgagee of a vessel of the United States, as revised on March 30, 1939 (5 F.R. 160 D.I.), provision is made for a definite statement as to the percentum of interest in the corporation that is owned by citizens of the United States of America. In the case of large corporations whose stock is widely sold, it often is difficult for corporation officials to know at any and all times the names and citizenship of the actual owners of all of the corporate stock. The Commission therefore has approved the addition or attachment to the form of oath of officer of an incorporated company, approved by the Commission on March 30, 1939 (5 F.R. 160 DI) to be executed on behalf of an incorporated company owner or mortgagee of vessels, as and when desired, the following explanatory clause (with footnotes):

"The basis for the statements of facts above recited with respect to the stock ownership and control of voting power of the company, is as follows: (1) the stock books of the company show that on (a) -----, 19--, (b) ----- per centum of the outstanding stock of the company was owned of record by persons whose addresses on the stock books of the company are in the United States; (2) I know of no substantial change in such percentage since that date; and (3) investigation has failed to disclose the existence of facts or relationships with respect to voting power and control contrary to those above recited.

^aThis date must be within 30 days of date of Oath.

^bThe exact figure as disclosed by the stock books of the company must be given and the percentum figure must be not less than 65 per centum."²

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, Jr.,
Secretary.

MAY 24, 1940.

[F. R. Doc. 40-2254; Filed, June 5, 1940;
11:52 a. m.]

²Copies of the form referred to (No. 4557) and the explanatory clause may be obtained from the Secretary, United States Maritime Commission, Washington, D. C., or from Collectors of Customs at the various ports.