

Decision No. 33738

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LOUIS R. LACKEY to sell, assign and transfer, and BLYTHE GAS CO., LTD., a corporation, to purchase, acquire and operate certain public utility gas properties, franchise and certificate of public convenience and necessity; and of BLYTHE GAS CO., LTD., a corporation, to issue and sell stock, notes and other evidences of indebtedness.

ORIGINAL

Application No. 22976

BY THE COMMISSION:

O P I N I O N

Louis R. Lackey, doing business under the fictitious name of Blythe Gas Co., asks permission to sell his public utility gas properties at Blythe, California, to the Blythe Gas Co., Ltd., a corporation. The Blythe Gas Co., Ltd., asks authority to issue eight hundred and seventy five shares of its common capital stock of the par value of \$25 per share or such other amount as the Commission may determine to be the equivalent of the proprietor's equity in said gas properties, to issue one hundred and twenty three shares of the par value of \$25 each of 6% preferred stock to pay indebtedness, and to issue and assume notes to which reference will hereafter be made.

The Railroad Commission by Decision No. 29448, dated January 11, 1937, in Application No. 20824, granted to Louis R. Lackey a certificate of public convenience and necessity to ex-

ercise the rights and privileges granted to him by the City Council of the City of Blythe under Ordinance No. 118, dated December 7, 1936. Subsequent to said date, Louis R. Lackey constructed a butane gas plant in the City of Blythe. The plant was placed in operation about April 15, 1937. For 1937, he reports operating revenues of \$5,668; for 1938, \$12,705.96; for 1939, \$15,884.51; and for the six months ending June 30, 1940, \$10,180.48.

The properties, which Louis R. Lackey has acquired and constructed and now proposes to sell to the Blythe Gas Co., Ltd., are described in Exhibit "A" attached to the amended petition filed in this proceeding. In general, they consist of a lot 150 x 160 feet, subject to a 10-foot right of way for an alley, at the southeast corner of Main and Wells Street in the City of Blythe on which are erected three, 4,000 gallon welded steel storage tanks of 165 pounds working pressure, primary and stand-by vaporizing and metering equipment with capacity to supply five hundred or more consumers, a concrete and sheet metal building, water heater, pipe, fittings, gauges, tools and equipment; over four miles of three inch, two inch and one and one-half inch mains in the streets and alleys of the City of Blythe supplying 279 services; 292 consumers' meters and three meters of larger capacity; 105 I.C.C. cylinders of 100 pound capacity and 11 cylinders of 200 pound capacity with regulators, valves and fittings; one 1937 Dodge pick-up car fully equipped as a service car; one White tractor, model 704K, with full butane carburetor fuel tank, butane pump and equipment, attached to a G.M.C. T218 trailer on which is mounted a 3,000 gallon welded steel storage tank fully equipped; and ranges, water heaters,

heating equipment, gas refrigerators, cylinders and office furniture and equipment. A copy of the grant deed is filed in this proceeding as Exhibit "D," and a copy of the bill of sale as Exhibit "E."

The original cost and the present value of the properties, which Louis R. Lackey desires to transfer to Blythe Gas Co., Ltd., as of July 31, 1940, are reported as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Cost</u>	<u>Present Value</u>
301	Organization	\$ 947.27	\$ 4,847.27
302	Franchises	313.20	1,313.20
351	Distribution Land	593.69	2,500.00
352	Distribution Structures	713.35	713.35
353	Distribution Station Equipment	1,803.51	1,803.51
354	Distribution Storage Equipment	5,220.13	5,220.13
355	Distribution Mains	11,032.09	11,032.09
357	Distribution Services	4,597.24	4,597.24
358	Consumers' Meters and Regulators	3,955.17	3,955.17
377	General Office Equipment	179.62	179.62
383	General Transportation Equipment	4,262.92	4,262.92
-	Materials and Supplies	-	1,561.97
	<b>Total</b>	<b>\$32,618.19</b>	<b>\$41,986.47</b>

The balance sheet of Blythe Gas Co., as of October 31, 1940, shows a reserve for accrued depreciation of \$2,703.19.

Applicants represent that additional amounts should be added to the organization and franchise costs to represent services rendered by Louis R. Lackey for legal, engineering and promotional services. We have considered these representations and believe that the amounts claimed for such services are excessive. For the purpose of this proceeding, we will increase the organization expenses from \$947.27 to \$1,947.27. We will also recognize \$2,500 as the present value of the company's land.

Blythe Gas Co., Ltd. was organized on or about August

9, 1939, and has an authorized stock issue of 2,000 shares, divided into two classes, viz., preferred stock and common stock of a par value of \$25 per share. The aggregate par value of all of the shares of both classes of stock is \$50,000. Its Articles of Incorporation provide for an authorized issue of 800 shares of preferred stock and 1,200 shares of common stock. They further provide that the holders of preferred stock shall be entitled to receive, when and as declared by the Board of Directors of the corporation, from the surplus or net profits of the corporation, preferential, yearly dividends at the rate of \$1.50 per share and no more. Dividends are to be paid quarterly on the first days of January, April, July and October of each year. The dividends on the preferred stock shall be cumulative from and after January, 1945, and shall be declared and paid, or set apart for payment, before any dividends on the common stock shall be paid or set apart for payment. The preferred stock shall be subject to redemption, in whole or in part, at the option of the corporation, to be declared by the Board of Directors on any dividend payment date after one year from the date of issue thereof. If said preferred stock is called one year from date of issue, it shall be redeemed at the price of \$26 per share; if called two years from date of issue, at \$25.75 per share; if called three years from date of issue, at \$25.50 per share; if called four years from date of issue, at \$25.25 per share; and if called after five years from the date of issue, it shall be redeemed at \$25 per share.

The holders of the common stock, except as otherwise required by law, shall have one vote for each share issued and outstanding, and likewise the holders of the preferred stock

shall have one vote for each share issued and outstanding. As stated, Blythe Gas Co., Ltd. asks permission to issue to Louis R. Lackey eight hundred and seventy five shares of its common stock of the par value of \$25 per share, or so many shares thereof as the Commission may determine to be the equivalent of his equity in the properties. It also asks permission to issue one hundred and twenty three shares of its preferred stock to pay notes in the amount of \$3,071.25. It further asks permission to issue to the Citizens National Trust & Savings Bank of Riverside, a 5% note in the sum of \$12,500, of which \$800 or more is payable on or before May 1, 1940, \$800 or more on or before May 1, 1941, and thereafter \$1,200 or more on May 1st of each succeeding year until May 1, 1949, at which date the unpaid balance, if any, shall be due and payable. This note will be issued to refund outstanding indebtedness. Of the indebtedness to be refunded, \$800 was paid on May 1, 1940, and \$50 has been reserved for making a further payment. A copy of the note and a copy of the deed of trust securing the payment of the note have been filed in this proceeding as Exhibit "F." The deed of trust will be a lien on the company's real property at Blythe and on the improvements thereon. We find said note and said deed of trust to be in satisfactory form.

Blythe Gas Co., Ltd. also asks permission to assume the payment of \$822.50 due on an F.H.A. installment note, executed under the authority granted by Decision No. 30434, dated December 20, 1937, in Application No. 21617; the payment of \$427.20 due on an installment note in favor of the Citizens National Trust & Savings Bank of Riverside; and \$1,610.80 due Citizens National Trust & Savings Bank of Riverside on a note

issued to acquire a tank truck. This note is secured by a chattel mortgage which is a lien on the tank truck. By its terms, the note is payable in monthly installments of \$50. In our opinion, Blythe Gas Co., Ltd. should issue a new note for said \$1,610.80 and execute a new chattel mortgage to secure its payment. A copy of the note and chattel mortgage is filed in this proceeding as Exhibit "G." They are in satisfactory form.

Blythe Gas Co., Ltd. further asks permission to finance service extensions and improvements to the extent of \$5,125 by negotiating a loan or loans in said amount and by executing a note or notes therefor in such form as may be approved by the Commission.

In its original petition filed in this proceeding, applicant alleged that it will be necessary for it to purchase and install additional storage to the extent of at least 3,000 gallons, bottle filling equipment of larger capacity, electric pumping equipment, vapor proof electric wiring and lighting, liquid meters, main extensions estimated at 5,000 feet, 100 additional services, 100 additional consumers' meters, and 50 cylinders with regulators at a total estimated cost of \$6,838.82. The supplemental petition, filed on November 28, recites that to meet the increasing demand for domestic fuel, cylinder and bulk gas and to provide an emergency storage capacity, Louis R. Lackey has acquired a tank truck equipped with a 3,000 gallon welded steel storage tank at a cost of \$3,418.46. The record is not clear to us as to the amount of additional financing Blythe Gas Co., Ltd needs to undertake at this time, or as to the purposes for which the additional funds will be expended.

If the company finds it necessary to obtain additional funds, it should file with the Commission a statement showing the purposes for which such funds will be expended, together with a copy of the note it proposes to issue. This matter will then be covered by a supplemental order.

After reviewing the record in this proceeding, we are of the opinion that Louis R. Lackey should be permitted to sell his gas properties at Blythe to Blythe Gas Co., Ltd., and that said Blythe Gas Co., Ltd. should be permitted to issue to Louis R. Lackey as part payment for said properties \$18,125 par value of its common capital stock, and should further be authorized to issue preferred stock, notes, and assume indebtedness connected with or arising out of the business of said Louis R. Lackey, doing business under the fictitious name of Blythe Gas Co.

#### O R D E R

The Commission having considered the requests of Louis R. Lackey, doing business under the fictitious name of Blythe Gas Co., and of Blythe Gas Co., Ltd., and it being of the opinion that this is not a matter on which a hearing is necessary, that the money, property or labor to be procured or paid for by the issue of stocks and notes, and by the assumption of the indebtedness herein authorized, is reasonably required for the purposes stated in this order and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore

IT IS HEREBY ORDERED as follows:

1. Louis R. Lackey, doing business under the fictitious name of Blythe Gas Co., may sell and convey, on or before April 1, 1941, to Blythe Gas Co., Ltd., the properties to which reference is made in the foregoing opinion, and which are more particularly described in the grant deed and in the bill of sale filed in this proceeding as Exhibits "D" and "E," respectively, and said Blythe Gas Co., Ltd. may acquire and operate said properties and assume all of Louis R. Lackey's liabilities connected with or arising out of the business of said Louis R. Lackey, doing business under the fictitious name of Blythe Gas Co.

2. In part payment for said properties, Blythe Gas Co., Ltd. may issue and deliver to Louis R. Lackey, on or before April 1, 1941, not exceeding \$18,125 par value of its common capital stock.

3. For the purpose of paying \$3,071.25 of indebtedness, Blythe Gas Co., Ltd. may issue and deliver to Louis R. Lackey and Florence N. Lackey, on or before April 1, 1941, 123 shares of its \$25 par value preferred stock, said stock to be issued and delivered only upon condition that said indebtedness of \$3,071.25 will be liquidated.

4. Blythe Gas Co., Ltd. may, on or before April 1, 1941, issue to Citizens National Trust & Savings Bank of Riverside, a note for the principal sum of \$11,700, bearing interest at the rate of 5% per annum, and to secure the payment of said note by the execution of a deed of trust, said note and said deed of trust to be in substantially the same form as the note and deed of trust filed in this proceeding as Exhibit "F," provided, that the authority herein granted to execute a deed of



trust is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

5. Blythe Gas Co., Ltd. may assume the liability for the unpaid balance, \$822.50, due on the F.H.A. installment note, also the liability for the unpaid balance of \$427.27 due on an installment note in favor of the Citizens National Trust & Savings Bank of Riverside, to which reference is made in this application.

6. Blythe Gas Co., Ltd. may, on or before April 1, 1941, execute and deliver a note and chattel mortgage in the form of Exhibit "G" filed in this proceeding, for the purpose of paying part of the cost of a tank truck described in the application, provided, that the authority herein granted to execute said note and chattel mortgage is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said note and chattel mortgage as to such other legal requirements to which said deed of trust may be subject.

7. This application insofar as it involves the issue of 150 shares of common stock is hereby dismissed without prejudice.

8. The authority herein granted will become effective when Blythe Gas Co., Ltd. has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty five (\$25.00) Dollars.

9. Elythe Gas Co., Ltd. shall within thirty (30) days after it acquires the aforesaid properties, file with the Railroad Commission a copy of the grant deed, and a copy of the bill of sale by which it will acquire title to said properties, a copy of each note it issued, a copy of the deed of trust, a copy of the chattel mortgage executed under the authority herein granted, and a report in compliance with the Commission's General Order No. 24-A, which order insofar as applicable is made a part of this order.

Dated at San Francisco, California, this 17<sup>th</sup> day of December, 1940.

Ray & Rice  
Grants  
W. H. Hall  
Justin J. Calver  
Commissioners.

