

Decision No. 40368**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of LYON VAN & STORAGE CO., for an)
Order authorizing Applicant to)
issue notes totaling \$532,812.91.)
-----)

Application
No. 28384

O P I N I O N

Lyon Van & Storage Co., applicant herein, is a corporation engaged in the public utility warehouse business in San Francisco, Fresno, Los Angeles, San Diego and other points in Southern California, and in the transportation of property by motor vehicles in intrastate and interstate commerce. For 1946 it reported its revenues from its warehouse operations at \$47,299.12 and from its transportation and other operations at \$2,657,448.12, a total of \$2,704,747.24, and its net income for the year at \$220,546.86. It reports its net investment in property and equipment at \$1,247,779.03.

The application shows that the company has financed its requirements, in part, through the issue of common stock and notes. Exhibit "1" attached to the application shows that as of April 20, 1947, it had outstanding \$653,800 par value of stock and the following notes:

<u>Payee</u>	<u>Date of Issue</u>	<u>Date of Maturity</u>	<u>Rate of Interest</u>	<u>Amount</u>
A. H. Hathaway	Aug. 16, 1945	Feb. 15, 1947	4%	\$ 53,067.22
A. H. Hathaway	Jan. 1, 1946	Jan. 1, 1947	4%	1,812.91
Bank of America	Aug. 1, 1946	Dec. 15, 1954	4 1/2%	316,000.00
Bank of America	Aug. 22, 1946	Nov. 20, 1946	4%	100,000.00
Bank of America	Sep. 12, 1946	Dec. 11, 1946	4%	100,000.00
Standard Oil Co.	Jul. 11, 1946	Aug. 31, 1956	None	15,000.00
			Total	<u>\$585,880.13</u>

By Decision No. 39241, dated July 30, 1946, in Application No. 27634, the Commission authorized the company to execute a deed of trust and to issue the note for \$316,000 for the purpose of paying indebtedness and of financing the cost of additions to its warehouse facilities in Long Beach, Santa Barbara and Hollywood, and of constructing additional warehouse facilities in Los Angeles.

The issues of the other notes were not authorized by this Commission. It appears that the two notes were issued to A. H. Hathaway, one of its vice-presidents, in payment for services, the two notes for \$100,000 each were issued to obtain funds to finance the cost of additions to the property and equipment of applicant and its subsidiaries, and the \$15,000 note to Standard Oil Company were issued to finance the cost of fuel storage tanks at its warehouse terminal and garage in Los Angeles.

The company now reports that with the exception of the note for \$53,067.22 to A. H. Hathaway, all the above notes were void because their issue had not been authorized by the Interstate Commerce Commission. Accordingly, it has requested and has secured from that commission authority to execute a new deed of trust and to issue notes to replace those heretofore issued without authorization. It intends to replace the \$1,812.91 note to A. H. Hathaway with a new one payable on or before January 1, 1948; to execute a new deed of trust and note for \$316,000 in substantially the same form as those authorized by Decision No. 39241; to issue a new note for \$200,000 to take up the two \$100,000 notes, said new note to be payable at the rate of \$10,000 or more a month with interest at the rate of 4% per annum,

with final payment to be made on December 20, 1947; and to issue a new note in favor of Standard Oil Company in the same form as the one heretofore issued. Copies of the new notes and the deed of trust have been filed with the application.

It appears that in each case the indebtedness will be represented by a note payable later than twelve months after the date the indebtedness first was incurred. Accordingly, we believe the issues should be authorized by this Commission. It will be noted that the company in the title of the application requests authorization to issue \$532,812.91 of notes, thereby excluding the \$53,067.22 note, now past due, in favor of A. H. Hathaway. As to this note, it appears that the Interstate Commerce Commission does not assert jurisdiction over its issue.

However, the \$53,067.22 note by its terms is payable later than twelve months after its issue and therefore, in our opinion, should have been authorized by this Commission. Such authorization not having been made, we believe the note is void and that it will be necessary for the company to apply for authorization from this Commission in the event it desires the indebtedness to be represented by a note.

The report of the Interstate Commerce Commission, attached to the application as Exhibit "2", indicates that it is the intention of the company to issue and renew, from time to time, additional long-term notes in the amount of \$100,000 to purchase or repair equipment and to provide working capital. Before issuing such additional notes, applicant should apply for and receive permission to do so from this Commission. Such a request is not now before us.

O R D E R

Lyon Van & Storage Co. having applied to the Public Utilities Commission for permission to issue \$532,812.91 of notes, and the Commission having considered the matter and being of the opinion that a public hearing is not necessary, that it should enter an order authorizing the issue of said notes and that the money, property or labor to be procured or paid for through the issue of said notes is reasonably required for the purpose indicated herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Lyon Van & Storage Co. may execute a deed of trust in, or substantially in, the same form as that filed in this proceeding as Exhibit "4-b", and may issue notes for \$15,000, \$1,812.91, \$316,000 and \$200,000 in, or substantially in, the same form as those filed in this proceeding as Exhibits "3", "4", "4-a" and "5", respectively, for the purpose of replacing notes of like amounts heretofore issued and referred to in the opinion preceding this order.

2. Lyon Van & Storage Co. shall file a report, or reports, as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

3. The authority herein granted will become effective when Lyon Van & Storage Co. has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 10th day
of June, 1947.

Harold F. Hale
James F. Calver
Wesley D. Powell
A. F. Morrison
Kenneth C. Carter
Commissioners