

Decision No. 40908

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
INLAND WAREHOUSE AND TRUCKING)	
COMPANY)	Application
a Corporation)	No. 28767
for an order authorizing the issuance)	
of its common stock.)	
-----)	

O P I N I O N

Inland Warehouse and Trucking Company, applicant herein, is a corporation organized on or about September 24, 1945, under the laws of the State of California, with an authorized capital stock of 500 shares of the par value of \$100 each, all common. It presently is engaged in operating public warehouses in the Cities of San Bernardino and Riverside⁽¹⁾ and a trucking business in connection therewith.

The application shows that the corporation was organized by Paul C. Groce, John J. Geiger and Earl S. Webb, each of whom contributed \$2,500 in cash or real and personal property to the new corporation, but that thereafter the interest of Paul C. Groce was acquired by Valah D. Webb. It does not appear that the corporation, as yet, has issued any stock or other security to these individuals in evidence of these amounts or that it has made any

(1) The company's tariff P.U.C. No. 1, naming rates for storage in San Bernardino, became effective December 28, 1945, and its tariff P.U.C. No. 2, naming rates for storage in Riverside, became effective August 1, 1947.

application to this Commission, prior to the pending matter, for authority to issue stock or to execute any deed of trust or other encumbrance and to issue notes.

The application further shows that applicant, in September 1945, undertook the construction of a reinforced concrete warehouse in San Bernardino, containing 22,400 square feet of floor space, completing the same on or about May 1, 1946, at a total cost, including the real property, of \$63,286.64. In addition, it reports expenditures of \$3,723.45 for paving and \$13,082.09 for truck and warehouse equipment and furniture and fixtures. The Riverside premises are occupied under lease arrangements.

It appears that aside from the \$7,500 advanced by the incorporators, the company has financed its capital and other requirements primarily with borrowed money. Its balance sheet as of July 31, 1947, shows assets and liabilities as follows:

<u>Assets</u>		
Building and land		\$63,286.64
Paving		3,723.45
Other assets:		
Warehouse equipment	\$7,896.86	
Furniture and fixtures	2,017.15	
Trucks and equipment	<u>3,168.08</u>	<u>13,082.09</u>
		30,092.18
Less-Allowance for depreciation		<u>4,276.18</u>
		75,816.00
Current assets:		
Cash	4,394.05	
Accounts receivable	5,045.27	
Merchandise	544.35	
Special deposits	5,442.69	
Prepaid expenses	<u>2,022.48</u>	
Total current assets		<u>17,448.84</u>
Total Assets		<u>\$93,264.84</u>

Liabilities

Long-term debt		\$46,007.39
Current liabilities:		
Notes payable	\$25,715.92	
Accounts payable	4,718.14	
Other current liabilities	<u>1,191.48</u>	
Total current liabilities		31,625.54
Capital stock		7,500.00
Earned surplus		<u>8,131.91</u>
Total Liabilities		<u>\$93,264.84</u>

Since the date of the balance sheet the company has made payments on its outstanding indebtedness and has borrowed, on September 18, 1947, the additional sum of \$10,000, on an unsecured short-term note, in order to pay certain of its former outstanding long-term debt and other advances. With these transactions its notes payable are reported as follows:

	<u>Date</u>	<u>Life</u>	<u>Interest</u>	<u>Amount</u>
Bank of America N. T. & S. A.	Mar. 5, 1946	5 years	5%	\$36,900.00
Bank of America N. T. & S. A.	Jul. 7, 1947	2 years	5%	3,221.52
Bank of America N. T. & S. A.	Sept. 18, 1947	6 mos.	5%	10,000.00
Earl S. Webb	Oct. 9, 1946	2 years	6%	<u>11,000.00</u>
Total				<u>\$61,121.52</u>

The five-year note in favor of Bank of America National Trust and Savings Association, originally in the principal amount of \$45,000, is secured by a deed of trust covering real property in the City of San Bernardino and the two-year note in favor of the same payee, originally in the total amount of \$3,591.92, is secured by a mortgage of chattels on certain units of property. The other two notes are unsecured.

The Commission did not authorize the issue of the notes payable later than twelve months after their respective dates, nor

the execution of the deed of trust, or the mortgage of chattels, nor the issue of the refunding note on September 18, 1947. Sections 51 and 52 of the Public Utilities Act provide, among other things, that no public utility may, without an order from the Commission, encumber any part of its properties necessary or useful in the performance of its duties to the public or issue a note or other evidence of indebtedness payable at periods of more than twelve months after the date thereof, nor refund the same. The sections referred to declare void such encumbrances and notes or other evidences of indebtedness if made or issued without such an order from the Commission.

It appears, however, that the company's failure to obtain authorization from the Commission was through inadvertence and with no intent to evade the provisions of the Public Utilities Act. When the matter was called to its attention it filed the present application for a nunc pro tunc order with respect to the four items of indebtedness.

A review of the application clearly indicates that the company had need for the money represented by said notes to finance in part the cost of its property and equipment and to provide working capital. However, the notes and encumbrances being void, we do not believe that we can issue a nunc pro tunc order and thereby render them valid. The order herein accordingly will authorize the company to issue new notes and to execute a new deed of trust and mortgage of chattels in lieu of those issued or executed without permission from this Commission. The issue of \$7,500 of stock in settlement of the sums heretofore advanced appears to be warranted.

O R D E R

The Public Utilities Commission having considered this application and it being of the opinion that a public hearing is not necessary, that an order should be entered authorizing Inland Warehouse and Trucking Company to issue stock and notes, in the amounts set forth herein, and to execute a deed of trust and a mortgage of chattels, and that the money, property or labor to be procured or paid for through the issue of said stock and notes 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, therefore,

IT IS HEREBY ORDERED as follows:

1. Inland Warehouse and Trucking Company, after the effective date hereof and on or before January 31, 1948, may issue not exceeding \$7,500 par value of its capital stock in satisfaction of advances to it of like amount and may issue four (4) promissory notes in the aggregate principal amount of not exceeding \$61,121.52, such notes to be in, or substantially in, the form of those referred to in the preceding opinion and in this application, for the purpose of representing or refunding the balances due on its presently existing indebtedness mentioned in the foregoing opinion, and may execute a deed of trust and a mortgage of chattels in substantially the same form as those attached to the amended application herein.

2. On or before March 1, 1948, Inland Warehouse and Trucking Company shall advise the Commission, in writing, of the

action taken by it under the authority herein granted.

3. The authority herein granted will become effective when Inland Warehouse and Trucking Company has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is sixty-two (\$62.00) dollars.

Dated at San Francisco, California, this 12th day of November, 1947.

Harold P. Kula
Justice J. C. Green
James H. Powell
R. T. [unclear]
Commissioners

