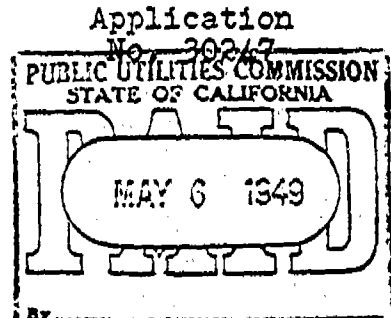


ORIGINAL

Decision No. 42821

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BATTEATE LIVESTOCK TRANSPORTATION CO.,)
a corporation, for authority to)
execute a Deed of Trust.)
-----)



O P I N I O N

In this application, Batteate Livestock Transportation Co. asks the Commission to make its order as follows:

(1) Approving the assumption of liability by your applicant of the installment note and mortgage of chattels dated April 28, 1947, said note having a balance due on March 31, 1949, of \$19,578.58.

(2) Approving the indebtedness incurred by your applicant under an installment note dated March 29, 1949, in the amount of \$10,600.00, said money being an advance under the above mentioned mortgage of chattels.

(3) Approving the assumption of the obligations under a mortgage of chattels dated April 22, 1946, said mortgage of chattels still being existent as further security for the installment note and mortgage of chattels mentioned dated April 28, 1947.

(4) Authorizing the execution of a corporation installment note for \$15,000 and a deed of trust.

Batteate Livestock Transportation Co. is a corporation engaged in business as a highway common carrier of livestock between numerous points in California. The records of the Commission show that during 1947, under authority granted by Decision No. 40370, dated June 10, 1947, it acquired the operations of Alfred Joseph Batteate and A. J. Batteate, Jr., and operating rights and properties and, in doing so, issued \$50,000 par value of stock and

assumed the payment of the then outstanding indebtedness of Alfred Joseph Batteate and A. J. Batteate, Jr. It has reported its operating revenues for the last six months of 1947 at \$180,563, and for 1948 at \$436,945, with net income of \$6,162 in the last six months of 1947, and of \$35,551 in the year 1948. It reports its assets and liabilities as of December 31, 1948, as follows:

Assets

Current assets -		
Cash	\$11,960.54	
Accounts receivable	10,051.14	
Other current assets	1,200.00	
Prepaid expenses	<u>15,344.83</u>	
Total current assets		\$ 38,556.51
Tangible property-less depreciation reserve of \$154,518.30		184,502.45
Other assets		<u>2,353.87</u>
Total		<u>\$225,412.83</u>

Liabilities

Current liabilities -		
Notes and accounts payable	\$36,461.16	
Payroll payable	3,229.78	
Accrued taxes	<u>25,819.28</u>	
Total current liabilities		\$ 65,510.22
Equipment obligations		27,969.40
Secured notes		5,800.00
Other liabilities		7,327.13
Common stock		50,000.00
Surplus		<u>68,806.08</u>
Total		<u>\$225,412.83</u>

Applicant reports, among other things, that heretofore certain notes and mortgages of chattels covering operative equipment have been issued as follows:

1. Mortgage of chattels dated April 28, 1947, and a twelve-months installment note for \$77,988.08, due on or before April 28, 1948, with payment extended by oral agreement for a period of eighteen months; unpaid balance March 31, 1949 - \$19,578.58

2. Mortgage of chattels dated April 22, 1946, and a twelve-months installment note for \$119,625.00, since paid in full - -
3. Twelve-months installment note dated March 29, 1949, as an advance under the mortgage of chattels dated April 28, 1947 - \$10,600.00

The application shows that the two mortgages of chattels were executed by applicant's predecessors and that the indebtedness secured thereby, or such portion thereof as remained unpaid at the time applicant acquired its predecessors' operations, was assumed by it. The \$10,600 note subsequently was issued by applicant for the purpose of acquiring property and of increasing its working capital. The mortgage of chattels dated April 22, 1946, has not been released, although the indebtedness of \$119,625 originally secured by it has been paid. Such mortgage, it is reported, constitutes additional security for the outstanding indebtedness referred to in the tabulation.

Applicant now asks the Commission to approve the assumption by it of the mortgages of chattels and the indebtedness. In addition, it asks permission to issue a new note in the principal amount of \$15,000 to be payable in monthly installments of \$500 or more, with interest at the rate of 5-1/2% per annum, and to execute a deed of trust to secure the payment of it. It reports that the additional funds to be obtained through the issue of said new note are required to provide additional working capital for the reason that its transportation revenues for the months of January, February and March, 1949, have been considerably below those of last year because the spring movement of livestock has been delayed by weather conditions.

The Commission did not authorize applicant's predecessors to execute the mortgages of chattels on their equipment. It cannot now, at a later date, approve the execution of such mortgages nor authorize the assumption of them by applicant. The assumption by applicant of indebtedness of its predecessors was authorized by Decision No. 40370. If applicant desires its outstanding indebtedness to be secured by mortgages or other liens on its operative property it will be necessary for it to execute in its own name new instruments, after first having received from this Commission authority to do so. It is unnecessary for the Commission to authorize the issue of the \$10,600 twelve-months note referred to in the application.

A review of the application indicates that applicant is in need of the additional funds to be obtained through the issue of the proposed new note.

O R D E R

The Public Utilities Commission having considered the above entitled application and being of the opinion that a public hearing thereon is not necessary, that the application should be granted and authority given as herein provided, and that the money, property or labor to be procured or paid for through the issue of the \$15,000 note is reasonably required by Batteate Livestock Transportation Co. for the purposes specified herein; therefore,

IT IS HEREBY ORDERED as follows:

1. Batteate Livestock Transportation Co., after the effective date hereof and on or before July 31, 1949, may issue an installment note in the principal amount of \$15,000 for the purpose of maintaining and improving its service, and may execute a deed of trust, said note and said deed of trust to be in, or substantially in, the same form as those filed in this proceeding as Exhibit "A".

2. Batteate Livestock Transportation Co., after the effective date hereof and on or before July 31, 1949, may execute two mortgages of chattels in, or substantially in, the same form as those dated April 22, 1946, and April 28, 1947, on file in this proceeding in place of those heretofore executed by applicant's predecessors.

3. Batteate Livestock Transportation Co. shall file with this Commission a report showing the action taken by it under the authority herein granted, and a statement showing the purposes for which it used the proceeds realized through the issue of the \$15,000 note herein authorized, said report to be filed within thirty (30) days after the execution of the mortgages of chattels and note under the authority herein granted.

4. The authority herein granted will become effective when Batteate Livestock Transportation Co. has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 3rd day
of May, 1949.

R. J. Morrison

James J. Walker

Harold P. Kula

Samuel P. Potter
Commissioners

