

Decision No. 43129

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of J. A. CLARK DRAYING COMPANY,
LTD., a corporation, for an order
authorizing execution of evidences
of indebtedness.

Application
No. 30467

O P I N I O N

This is an application by J. A. Clark Draying Company, Ltd., for authority to execute evidences of indebtedness as hereinafter set forth.

J. A. Clark Draying Company, Ltd., is a California corporation, engaged in the warehouse and draying business in San Francisco and Los Angeles. The application shows that applicant, in order to increase and improve its facilities, acquired certain real property in Los Angeles and improvements thereon consisting of garage and repair shop buildings and equipment, and also acquired certain additional rolling equipment, and that in doing so it executed a note and deed of trust, three conditional sales contracts, and ten notes to certain of its directors, payable in whole or in part, later than twelve months after their dates without obtaining orders from this Commission authorizing the same. Applicant alleges, however, that its failure to do so was through inadvertence.

The evidences of indebtedness referred to in the preceding paragraph for which authorization was not obtained, and the unpaid balances as of July 1, 1949, are as follows:

1. Note and deed of trust, dated November 6, 1945, payable in monthly installments of \$225 to and including June 1, 1951; of \$150 thereafter to and including February 1, 1958; and of \$75 thereafter to and including January 1, 1963; with final payment on February 1, 1963; with interest at the rate of 4½% per annum; original amount \$30,000, unpaid balance - \$ 21,900.

2. Conditional sales contracts with Fruehauf Trailer Company, payable in twenty four monthly installments with interest at the rate of 4% per annum, as follows:-

<u>Date of Maturity</u>	<u>Total Amount</u>	<u>Balance July 1, 1949</u>
8- 5-50	\$9,191	\$5,005
8- 5-50	1,883	1,092
10- 5-50	4,704	<u>3,100</u>

Total unpaid balance - 9,197

3. 5% promissory notes in favor of directors, original amounts and unpaid balances as follows:-

<u>Date of Issue</u>	<u>Date of Maturity</u>	<u>Amount</u>
1- 1-46	1- 1-51	\$ 3,500
1- 1-46	1- 1-51	5,250
1- 1-46	12-31-51	3,500
1- 1-46	12-31-51	5,250
1- 1-46	12-31-51	1,250
1- 1-46	12-31-51	25,000
2-25-46	2-25-51	20,000
12-23-48	12-23-53	2,500
12-23-48	12-23-53	2,500
12-23-48	12-23-53	<u>3,750</u>

Total unpaid balance - 72,500

Total \$103,597

Applicant has asked the Commission to make its order authorizing it to execute these evidences of indebtedness. However, Sections 51 and 52 of the Public Utilities Act provide, among other things, that a public utility may not encumber any part of its properties necessary or useful in the performance of its duties to the public, or issue notes or other evidences of indebtedness payable later than twelve months after the date of issue, unless it first receives from this Commission an order authorizing it to do so. The act declares void such encumbrances and notes, or other evidences of indebtedness, if made or executed

without an order of the Commission then in effect. We cannot, at this time, make an order authorizing the execution of such void instruments.

A review of the application indicates that applicant had need for the money represented by said notes and contracts to finance, in part, the cost of its facilities. The order herein will authorize applicant to issue new notes and execute new instruments, in lieu of those issued or executed without authorization from this Commission, to represent the amount of the unpaid indebtedness.

O R D E R

The Public Utilities Commission having considered the above entitled application and being of the opinion that a public hearing is not necessary, that the money, property or labor to be procured or paid for through the execution of evidences of indebtedness as herein authorized is reasonably required by applicant for the purpose specified herein and that such purpose, is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. J. A. Clark Draying Company, Ltd., after the effective date hereof and on or before October 31, 1949, for the purpose of refunding outstanding indebtedness may, (a) execute a deed of trust in substantially the same form as that filed in this proceeding as Exhibit "A" and issue a note in the principal amount of not exceeding \$21,900, payable on or before February 1, 1963, as indicated in said Exhibit "A"; (b) execute a conditional sales contract, or contracts, providing for deferred payments in

the aggregate amount of not exceeding \$9,197 with final payment, or payments, on or before October 5, 1950, said contract, or contracts, to be in substantially the same form as that filed in this proceeding as Exhibit "B"; and (c) issue a promissory note, or notes, in the aggregate amount of not exceeding \$72,500, payable on or before December 23, 1953, said note, or notes, to be in substantially the same form as that filed in this proceeding as Exhibit "C".

2. Within thirty (30) days after the execution of an evidence, or evidences, of indebtedness under the authority herein granted, applicant shall advise the Commission in writing of such action.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 19th day of July 1949.

J. Z. Dintman
Justice F. G. Jones
James F. Jones
Harold P. Hull
Herbert H. Lott
Commissioners

