

Decision No. 44447

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )  
 HAROLD B. BOYLE, an individual, doing )  
 business under the firm name of BOYLE )  
 & SON, for (a) Authority to Borrow ) Application  
 Money and Execute a Promissory Note ) No. 31453  
 and Trust Deed, to Secure Same, and )  
 (b) for a Modification of Order )  
 Heretofore Made for Amortization of )  
 Acquisition Cost of Intangibles. )  
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O P I N I O N

In this application, the Commission is asked to make an order authorizing and approving the execution by Harold B. Boyle of certain promissory notes and deeds of trust and a conditional sale contract, and modifying its former order in Decision No. 38258, dated September 25, 1945, as hereinafter set forth.

Harold B. Boyle, an individual doing business under the firm name and style of Boyle & Son, is a highway common carrier of property between San Diego and Escondido, serving intermediate points, and between Santa Margarita Ranch in the vicinity of Oceanside and Los Angeles Harbor, serving intermediate points. In his annual financial statements on file with the Commission for the past three years he has reported the following:

	<u>Operating Revenues</u>	<u>Other Income</u>	<u>Total</u>	<u>Net income before provision for income tax</u>
1947	\$247,248	\$16,005	\$263,253	\$11,653
1948	255,937	14,667	270,604	9,438
1949	242,409	10,563	252,972	4,259

Applicant reports his assets and liabilities as of April 30, 1950, as follows:

Assets

Cash and deposits	\$ 2,266.40
Accounts receivable	16,195.68
Merchandise	779.30
Tangible property	144,921.92
Intangible property and deferred debits	<u>18,619.69</u>
Total	<u>\$182,782.99</u>

Liabilities

Accounts payable	\$ 14,386.39
Advance charges	2,899.73
Contracts payable	5,077.50
Accrued liabilities	11,220.26
Mortgages on real estate	22,125.55
Other loans	5,800.00
Reserve for depreciation	75,822.69
Net worth	<u>45,450.87</u>
Total	<u>\$182,782.99</u>

The application shows that applicant, in the conduct of his business as a highway common carrier, heretofore executed certain notes, deeds of trust, and a conditional sale contract, all representing indebtedness payable over periods of more than 12 months, without authorization from the Commission. The indebtedness thus incurred and the balances remaining unpaid on March 31, 1950, are reported as follows:

<u>Indebtedness and Payee</u>	<u>Original Amount</u>	<u>Unpaid Balance</u>
Deed of trust and note in favor of Oscar and Pauline Hall, due \$100 monthly at 6%	\$15,000.00	\$11,400.00
Deed of trust and note in favor of Security Trust & Savings Bank, due \$50 monthly at 6%	5,000.00	3,210.51
Deed of trust and note in favor of Oscar and Pauline Hall, due \$100 monthly at 6%	8,000.00	7,800.00
Conditional sale contract with Fruehauf Trailer Company, due in 23 monthly installments	<u>2,340.00</u>	<u>1,240.00</u>
Total	<u>\$30,340.00</u>	<u>\$23,650.51</u>

It appears from the application that applicant's failure to obtain, from the Commission, authorization to execute the foregoing

evidences of indebtedness was through inadvertence and with no intent to evade the provisions of the Public Utilities Act. When the matter was called to his attention he caused the present application to be filed for approval of the instruments heretofore executed.

However, the Public Utilities Act declares void every note or other evidence of indebtedness of a public utility, payable at periods of more than 12 months after the date thereof, if issued without an order of the Commission authorizing the same. We do not believe that at this time we can authorize or approve the prior execution by applicant of the instruments referred to in this application. In our opinion it will be necessary for applicant to execute new instruments, upon being authorized to do so. The order herein will so provide.

In 1945, applicant entered into an agreement to purchase certain operative rights and properties from Elmer L. Webb and Roy C. Webb for the sum of \$14,396, of which \$4,396 was said to represent the value of tangible property and \$10,000 the value of operative rights, certificates, names and goodwill. The order of the Commission authorizing the transfer (Decision No. 38258, dated September 25, 1945, in Application No. 26895) directed applicant Boyle, if he acquired said rights and properties, to charge to Account 1550, Other Intangible Property, that part of the purchase price in excess of \$4,396 and thereafter to amortize said amount over a period of not more than three years after acquiring said properties and rights, by charges to Income Account 7500, Other Deductions.

Applicant now reports that again through inadvertence he failed to cause the appropriate entries to be made on his books amortizing the sum of \$10,000 referred to in the Commission's former decision. Upon the matter being called to his attention, he has

requested the Commission to permit him to amortize the amount over a period of three years, beginning with the calendar year 1950, in lieu of revising his income statements for the three years following his acquisition of the rights and properties. This request will be granted.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the execution of the notes, deeds of trust, and the conditional sale contract 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. Harold B. Boyle, after the effective date hereof and on or before December 31, 1950, may execute his notes and deeds of trust, in substantially the same form as those filed in this proceeding as Exhibit A, Exhibit B and Exhibit C, and his conditional sale contract, in substantially the same form as that filed as Exhibit D, in lieu of those heretofore executed without an order from the Commission, providing for payment of indebtedness in the aggregate amount of not exceeding \$23,650.51, under the terms set forth in said exhibits.

2. The order in Decision No. 38258, dated September 25, 1945, in Application No. 26895, hereby is modified so as to permit

Harold B. Boyle to amortize over a period of three years, commencing January 1, 1950, the \$10,000 charge to Account 1550 referred to in that decision.

3. Applicant shall file with the Commission a report of the execution of the notes, deeds of trust, and conditional sale contract under the authority herein granted, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

4. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five (\$25.00) dollars.

Dated at San Francisco, California, this 27<sup>th</sup> day of June, 1950.

R. E. [Signature]

Harry [Signature]

Harold B. Boyle

Commissioners

