

ORIGINAL

Decision No. 44533

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
RELIABLE TRANSPORTATION COMPANY, a
California corporation,
for authority to enter into certain
conditional sales contracts.

Application
No. 31529

O P I N I O N

In this application, Reliable Transportation Company requests this Commission to make its order approving three conditional sales agreements entered into by it with Sterling Motors Corporation, and four conditional sale contracts entered into by it with Fruehauf Trailer Company, for the purpose of acquiring equipment.

Reliable Transportation Company is a corporation organized under the laws of the State of California on or about August 2, 1938. For many years it engaged in the business of transporting petroleum and petroleum products in bulk in tank trucks and tank trailers as a highway contract carrier and radial highway common carrier, but more recently, by Decision No. 42623, dated March 15, 1949, was authorized to operate as a highway common carrier. Its annual report to this Commission for the year ending December 31, 1949, shows operating revenues of \$1,143,680, and net income of \$87,616. For the first four months of 1950, Exhibit No. 9 filed in this proceeding shows its revenues as \$552,976.64, and net profit as \$20,948.70.

In summary form, Exhibit No. 8 shows applicant's assets and liabilities as of April 30, 1950, as follows:

<u>Assets</u>	
Current assets	\$172,830.59
Tangible property (depreciated)	368,133.55
Intangible property - Franchise	1.00
Deferred charges	<u>64,022.19</u>
Total Assets	<u>\$604,987.33</u>

<u>Liabilities</u>	
Current liabilities	\$135,779.33
Equipment obligations	77,849.91
Reserves	34,135.79
Capital stock	40.00
Paid in surplus	56,243.13
Earned surplus	<u>300,939.17</u>
Total Liabilities	<u>\$604,987.33</u>

During 1949 and 1950, in acquiring equipment reported necessary in its operations, applicant executed three conditional sales agreements and four conditional sale contracts providing for deferred payments over periods of more than twelve months after their dates, as follows:

<u>Exh. No.</u>	<u>Date</u>	<u>Deferred Payments</u>	<u>Rate of Interest</u>	<u>Unpaid Balance April 30, 1950</u>
1. Agreement	May 2, 1950	\$ 16,791.22	5%	(1)
2. Agreement	Jan. 29, 1949	39,567.45	5%	\$ 19,782.45
3. Agreement	Oct. 31, 1949	19,932.92	5%	15,948.92
4. Contract	Nov. 11, 1949	18,645.55	(2)	15,118.54
5. Contract	Mar. 1, 1949	25,000.00	5%	16,875.00
6. Contract	Mar. 1, 1949	15,000.00	5%	10,125.00
7. Contract	May 10, 1950	16,430.04	5½%	(1)
		<u>\$151,367.18</u>		<u>\$77,849.91</u>

(1) Executed subsequent to April 30, 1950.

(2) Time price differential of \$1,542.10 included in the principal amount.

The deferred payment under each of the conditional sales agreements is represented by thirty promissory notes due serially in monthly intervals.

Applicant now asks the Commission to approve the execution of these instruments.

It appears that the instruments dated January 29 and March 1, 1949, (Exhibits 2, 5 and 6) were executed prior to the time applicant received its certificate of public convenience and necessity authorizing it to operate as a highway common carrier, and that accordingly the authorization of the Commission was not required prior to their execution and is not required at this time.

As to the remaining four instruments, executed after the time applicant received its certificate, the following are summaries of their terms:

Conditional sales agreement dated October 31, 1949, with Sterling Motors Corporation for 2 Sterling motor trucks. Provides for payment of \$19,932.92 deferred balance in 29 monthly installments of \$664, and 1 of \$676.92, to be evidenced by 30 promissory notes bearing interest at the rate of 5% per annum. (Exhibit 3)

Conditional sale contract dated November 11, 1949, with Fruehauf Trailer Company for 3 tankers and 3 truck tanks. Provides for payment of deferred balance of \$17,103.45 plus \$1,542.10 time price differential, or \$18,645.55 in 1 monthly installment of \$471.55 and 39 of \$466. (Exhibit 4)

Conditional sales agreement dated May 2, 1950, with Sterling Motors Corporation for 2 Sterling motor trucks. Provides for payment of \$16,791.22 deferred balance in 29 monthly installments of \$560 and 1 of \$551.22, to be evidenced by 30 promissory notes bearing interest at the rate of 5% per annum. (Exhibit 1)

Conditional sale contract dated May 10, 1950, with Fruehauf Trailer Company for 2 tankers, 2 truck tanks, and 2 heavy duty 6 wheel attachments. Provides for payment of \$16,430.04 deferred balance in 1 monthly installment of \$401.04, and 39 of \$411; all deferred balances bear interest at the rate of 5½% per annum. (Exhibit 7)

It clearly appears that applicant should have sought and received the Commission's authorization prior to the execution of these four instruments, but that its failure to do so was through inadvertence.

The Public Utilities Act provides, among other things, that an evidence of indebtedness of a public utility, payable at a period of more than twelve months, if executed without an order

of this Commission authorizing the same then in effect, shall be void. The Commission cannot by a later order approve the execution of evidences of indebtedness declared void by the Act, and accordingly it will be necessary for applicant to execute new instruments in lieu of those, payable later than twelve months after their date, heretofore executed by it without authorization from the Commission, following the date of its certificate of public convenience and necessity.

The principal amount of the instruments executed subsequent to April 30, 1950, (Exhibits 1 and 7) and the unpaid balances as of April 30, 1950, of the contracts filed as Exhibits 3 and 4, aggregate \$64,288.72.

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 an order should be entered as herein provided, that the money, property or labor to be procured or paid for by the execution of the evidences of indebtedness herein authorized is reasonably required by Reliable Transportation Company for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Reliable Transportation Company, after the effective date hereof and on or before October 31, 1950, for the purposes set forth in this application, may execute conditional sales agreements and conditional sale contracts in, or substantially in,

the same form as those filed in this proceeding as Exhibits 1, 3, 4 and 7, providing for deferred payments in the aggregate principal amount of not exceeding \$64,288.72. Applicant may issue such promissory notes as are contemplated by the conditional sales agreements.

2. Reliable Transportation Company shall file with the Commission a copy of each conditional sales agreement and conditional sale contract executed under the authority herein granted within thirty (30) days after the date thereof.

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 18th day of July, 1950.

R. E. Anderson
James J. Cooney
Joseph R. Preece
Harold P. Hule
Kenneth Pottel

Commissioners

