

ORIGINAL

Decision No. 45671

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CLARENCE J. LAMB,
LORA LAMB and COLIN J. BOONE
(Lamb Transportation Co.) for
authority to issue notes and
create a contract debt.

Application
No. 32339

OPINION

In this application, Clarence J. Lamb, Lora Lamb and Colin J. Boone, doing business as Lamb Transportation Co., request the Commission to make its order approving three notes and mortgages of chattels and one conditional sales contract previously executed by them for the purpose of acquiring equipment, and to authorize the issue of a note and mortgage of chattels to cover, in part, the purchase price of additional equipment.

Applicants report that they are engaged in the business of transporting property in bulk as highway common carriers over the public highways of the State of California pursuant to the provisions of a certificate of public convenience and necessity granted by the Commission by Decision No. 42623, dated March 15, 1949 in Application No. 29586. In Exhibit B attached to the application, they report, for the year ended December 31, 1950, operating revenues of \$748,581, and net income of \$33,674. For the months of January and February, 1951, as shown in Exhibit C, they report operating revenues of \$123,977 and net income of \$1,266.

In summary form, applicants' assets and liabilities as of December 31, 1950, are as follows:

<u>Assets</u>		
Current assets		\$168,503
Tangible property	\$715,773	
Less: Reserve for depreciation	<u>359,612</u>	386,161
Intangible property		1,794
Other investments		1,532
Deferred debits		<u>34,025</u>
Total assets		<u>\$592,015</u>

<u>Liabilities</u>		
Current liabilities		\$ 75,976
Advances payable		12,869
Equipment and other long term obligations		203,654
Deferred credits		38
Partnership capital		<u>299,478</u>
Total liabilities		<u>\$592,015</u>

During the year 1950, in acquiring equipment reported necessary in their operations, applicants executed three notes and mortgages of chattels and one conditional sales contract to Bank of America National Trust and Savings Association, American Avenue Branch, Long Beach, providing for repayment over periods of sixty months with interest at the rate of 5% per annum. The dates, original amounts and unpaid balances are as follows:

<u>Date of Instrument</u>	<u>Original Amount</u>	<u>Unpaid Balance February 28, 1951</u>
March 29, 1950	\$16,620.00	\$13,280.16
April 12, 1950	3,864.00	3,158.60
June 23, 1950	9,933.60	8,609.12
January 25, 1950	<u>16,000.00</u>	<u>12,266.62</u>
Totals	<u>\$46,417.60</u>	<u>\$37,314.50</u>

Applicants now ask the Commission to approve the execution of these instruments.

It clearly appears that applicants should have asked and received the Commission's authorization prior to the execution of the notes, mortgages of chattels and conditional sales contract entered into in 1950 but that they failed to do so through inadvertence and with no intent to evade the provisions of the Public Utilities Act.

The Public Utilities Act provides, among other things, that an evidence of indebtedness of a public utility, payable at a period of more than 12 months after date of issue if executed without an order of this Commission, shall be void. The Commission cannot by a later order approve the execution of evidences of indebtedness declared void and accordingly it will be necessary for applicants to execute new instruments in lieu of those payable more than 12 months after their date heretofore executed by them without authorization from the Commission after they commenced their operations as highway common carriers.

In addition, applicants request authority to issue a new installment note secured by a mortgage of chattels in the amount of \$11,685 to Bank of America National Trust and Savings Association to cover the purchase of one Fruehauf single axle semi-trailer, 2 compartment, 2800 gallon stainless steel Howard tank with pump and motor. The \$11,685 is to be repaid in equal monthly installments over a period of sixty months with interest at the rate of 5% per annum on unpaid balances.

ORDER

The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary, 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 Clarence J. Lamb, Lora Lamb and Colin J. Boone, doing business as Lamb Transportation Co., 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. Clarence J. Lamb, Lora Lamb and Colin J. Boone, after the effective date hereof and on or before November 30, 1951, for the purposes set forth in this application, may execute notes and mortgages of chattels and a conditional sales contract providing for deferred payments aggregating not in excess of \$37,314.50, in, or substantially in, the same form as those filed in this application as Exhibits D and E, in lieu of those executed without authorization of the Commission.

2. Clarence J. Lamb, Lora Lamb and Colin J. Boone, after the effective date hereof and on or before November 30, 1951, may execute a note and mortgage of chattels providing for payment of \$11,685 for the purpose of financing the cost of additional equipment, such note and mortgage of chattels to be in, or substantially in, the same form as that filed in this proceeding as Exhibit D.

3. Applicants shall file with the Commission a copy of each note and mortgage of chattels and conditional sales contract, executed under the authority herein granted within thirty days after date thereof.

4. The authority herein granted will become effective when applicants have paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is \$49.00.

Dated at Los Angeles, California, this 2nd day
of May, 1951.

[Signature]
Justin J. Calves
Harold A. Huls
[Signature]
[Signature]
 Commissioners

PUBLIC UTILITIES COMMISSION
 STATE OF CALIFORNIA
 16147
 MAY 15 1951
 4900
 By *[Signature]*