

Decision No. 46802

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CULY)	
TRANSPORTATION COMPANY for authority to	:	
execute promissory notes, chattel mortgages,)	Application
conditional sale contracts, and a deed of	:	No. 33134
trust.)	
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O P I N I O N

This is an application for an order of the Commission authorizing F. O. Culy, H. F. Culy, D. O. Culy, D. P. Culy, G. R. Culy, and Frank Culy, Jr., copartners doing business as Culy Transportation Company, to issue promissory notes and to execute mortgages of chattels, conditional sale contracts and a deed of trust, all as hereinafter set forth.

Applicants are engaged in business as highway common carriers of property generally between San Francisco and San Diego, and between points along Highway 99 between Sacramento and Tulare, on the one hand, and San Diego, on the other hand, under authorization granted by Decision No. 44531, dated July 11, 1950, and Decision No. 46430, dated November 20, 1951. They have reported for 1950 operating revenues of \$758,687.91 and net income of \$14,419.03 before making provision for income taxes, and for the first nine months of 1951 operating revenues of \$564,622.46 and net income of \$9,629.41 also before making provision for income taxes.

The application shows applicants' net investment in tangible property at \$246,380.92, and indicates that such investment, in part, was provided through the issue by applicants of promissory notes and the execution of conditional sale contracts. It appears that some of

such instruments are payable at periods later than 12 months after their dates and that some of them are secured by encumbrances on public utility property, and that applicants, through inadvertence, did not obtain from this Commission authority to execute such documents. The matter of the necessity of obtaining Commission authorization having been called to their attention, they have now filed the present application for authority to re-execute the instruments.

The promissory notes and the conditional sale contracts covered by the present application are summarized as follows:

Promissory notes

A.	To Anglo California National Bank to refund balance of original indebtedness of \$49,243.29, plus interest, to be payable in 46 monthly installments plus interest at the rate of 6% per annum and to be secured by a mortgage of chattels	\$37,723.21
B.	To American Trust Company to refund balance of original indebtedness of \$26,496.18, plus interest, to be payable in 6 monthly installments, with possible renewal for 6 months, plus interest at the rate of 6% per annum, and to be secured by a mortgage of chattels	17,496.18
C.	To Security Trust and Savings Bank to refund balance of original indebtedness of \$9,015.37, to be payable in monthly installments of \$200 with interest at 5%, and to be secured by a deed of trust	<u>7,177.33</u>
	Total	<u>\$62,396.72</u>

Conditional sale contracts

D.	To Security Trust and Savings Bank dated October 11, 1950, in the original amount of \$2,447.10 payable in 30 monthly installments plus interest at 4½% per annum	\$ 1,141.98
E.	To Security Trust and Savings Bank dated November 28, 1950, in the original amount of \$7,890.12, payable in 36 monthly installments plus interest at 4½% per annum	4,821.74
F.	To Yellow Manufacturing Acceptance Corporation, dated October 21, 1950, in the original amount of \$14,443.68, payable in 36 monthly installments plus interest at 6%	<u>8,298.68</u>
	Total	<u>\$14,262.40</u>

Subsequent to the execution of the three conditional sale contracts, the Public Utilities Act (now the Public Utilities Code) was amended so as to provide, in effect, that a highway common carrier would not be required to obtain from the Commission authority to execute a conditional sale contract for the purchase of motor vehicle equipment. (Section 816.5, Public Utilities Code.) However, the instruments in question were executed prior to the effective date of this section of the code and, in our opinion, they are void. We believe applicants should execute new contracts with respect to the remaining balances of these items.

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 issue of the promissory notes and the execution of the conditional sale contracts herein authorized is reasonably required by applicants 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. F. O. Culy, H. F. Culy, D. O. Culy, D. P. Culy, G. R. Culy, and Frank Culy, Jr., copartners doing business as Culy Transportation Company, after the effective date hereof and on or before June 30, 1952, may issue their promissory notes in the aggregate principal amount of not exceeding \$62,396.72 and execute mortgages of chattels and a deed of trust, and may issue conditional sale

contracts providing for the repayment of not exceeding \$14,262.40, plus interest, for the purpose of paying or refunding outstanding indebtedness of like amount. The notes, mortgages of chattels, the deed of trust and the conditional sale contracts shall be in, or substantially in, the same form as those filed in this proceeding. The note to be issued to American Trust Company, and the mortgage of chattels, may be renewed upon maturity for a further period of six (6) months.

2. Applicants shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicants have paid the fee prescribed by Section 1904 of the Public Utilities Code, which fee is seventy-seven (\$77.00) dollars.

Dated at Los Angeles, California, this 14th day of March, 1952.

Q. E. [Signature]
 President

Justus J. [Signature]
Harold P. [Signature]

 Commissioners

