

**ORIGINAL**

Decision No. 48441

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
Tri-Counties Rice Dryer Company for :	Application
Authority to Issue Long Term Notes. )	No. 34174
----- :	

O P I N I O N

In this application the Commission is asked to make its order approving the issue of long-term notes by Tri-Counties Rice Dryer Company.

The application shows that O. C. Easter, Thomas Haverty, Merle P. Brooks, Steven C. Petrusich and Harold T. Thrash, doing business as Tri-Counties Rice Dryer Company, a partnership, are engaged in the operation of a grain storage warehouse at Stegeman Station, in Colusa County. Information filed with the Commission shows that they commenced their operations during 1950 and that up to September 30, 1952, they had invested \$321,941.29 in facilities, located on lands leased from Southern Pacific Company and Southern Pacific Railroad Company, consisting of fourteen round tanks, one corrugated warehouse and two elevator and drying rooms, together with equipment, furniture and fixtures. Their annual reports to the Commission for the last two calendar years show their operating revenues and net income as follows:

	<u>Years Ended Sept. 30,</u>	
	<u>1951</u>	<u>1952</u>
Warehouse operating revenues	\$17,079.85	\$ 30,018.92
Nonoperating revenues	55,949.86	101,472.97
Total revenues	73,029.71	131,491.89
Net income, before provision for partners' withdrawals and income taxes	\$27,574.14	\$ 64,622.78

A summary of the assets, liabilities and capital of the enterprise as of September 30, 1952, is as follows:

Assets

Plant -		
Cost of property	\$231,903.47	
Construction in progress	<u>90,037.82</u>	
Balance	321,941.29	
Less-depreciation reserve	<u>29,976.83</u>	
Remainder		\$291,964.46
Cash		8,700.88
Prepayments		<u>12,132.15</u>
	Total	<u>\$312,797.49</u>

Liabilities and Capital

Liabilities -		
Notes and contracts payable	\$146,377.54	
Accounts payable	<u>2,723.03</u>	
Total liabilities		\$149,100.57
Owners' investment		<u>163,696.92</u>
	Total	<u>\$312,797.49</u>

The application shows that during 1952 applicants executed a chattel mortgage and issued to Pacific National Bank of San Francisco a note in the principal amount of \$160,000 for the purpose of financing in part the capital costs, and a note in the principal amount of \$11,377.54 for the purpose of paying insurance premiums. The particulars of the two notes, and the amounts originally issued and the amounts unpaid as of September 30, 1952, are shown below:

<u>Date</u>	<u>Final Payment Due</u>	<u>Rate of Interest</u>	<u>Principal</u>	<u>Balance 9/30/52</u>
7/ 1/52	1/ 1/57	5%	\$160,000.00	\$135,000.00
9/30/52	11/15/54	5%	<u>11,377.54</u>	<u>11,377.54</u>
			<u>\$171,377.54</u>	<u>\$146,377.54</u>

Applicants did not obtain from the Commission authorization to execute these long-term debts. It appears, however, that their failure to do so was through inadvertence and with no intent to evade the provisions of the Public Utilities Code. Upon being informed of the necessity of obtaining Commission authorization they filed this

application seeking the Commission's approval of their action in issuing the two notes.

However, it appears that under the provisions of Sections 825 and 851 of the Public Utilities Code the long-term notes and the chattel mortgage are void, having been executed without an order from the Commission. We cannot enter an order at this time approving or ratifying such void instruments as of their respective dates and, in our opinion, it will be necessary for applicants to re-execute the documents upon receiving appropriate authorization from the Commission.

O R D E R

The Commission having considered the above entitled matter, and being of the opinion that a public hearing is not necessary; that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required by applicants for the purposes specified herein; and that such purposes, other than the payment of insurance premiums, are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. O. C. Easter, Thomas Haverty, Merle P. Brooks, Steven C. Petrusich and Harold T. Thrash, doing business as Tri-Counties Rice Dryer Company, on and after the effective date hereof and on or before September 30, 1953, may issue their promissory notes in the aggregate principal amount of not exceeding \$146,377.54, in lieu of notes of like amount heretofore issued without authorization from the Commission, and may execute a chattel mortgage in place of that heretofore executed.

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(b) of the Public Utilities Code, which fee is \$147.00.

Dated at Los Angeles, California, this 7<sup>th</sup> day of April, 1953.

[Signature]  
President

[Signature]  
[Signature]  
[Signature]

Commissioners

