

Decision No. 59660

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LYON VAN & STORAGE CO. for an
Order Authorizing Applicant to
Issue a Note Secured by a Trust
Deed

Application No. 41847

OPINION AND ORDER

This is an application filed on January 12, 1960, for an order of the Commission authorizing Lyon Van & Storage Co. to issue its promissory note in the principal amount of not to exceed \$95,000, and to execute a deed of trust as security for the payment of said note, in order to finance the cost of constructing a warehouse building.

Applicant, a public utility warehouseman, is principally engaged in the transportation and storage of used household furniture. It reports that there have been numerous occasions in the past four or five years when prospective customers in or about the City of Tustin in Orange County have expressed a desire to store goods in its warehouses, but eventually decided otherwise because of the remoteness of the existing warehouses from the area in question.

To meet this demand for service, applicant recently acquired a parcel of real estate in the City of Tustin adjacent to the Santa Ana Freeway. It now proposes to construct a warehouse building on this property at a cost within the range of

\$82,000 to \$95,000. To finance the construction of the building applicant proposes to issue its promissory note to cover the full construction cost. The note which applicant proposes to issue will be repayable in equal monthly installments over a period of from 15 to 16 years, will provide for interest on the deferred balances at the rate of 7-1/2% per annum, will be secured by a deed of trust on the real property located in the City of Tustin and by the improvements to be constructed thereon, and payment thereon will be subject to acceleration only after ten years from the date of the note. Applicant advises that the warehouse building to be constructed with the use of the proceeds from the issue of the note will not be used as a public utility warehouse.

The proposed loan is to be made by a director of the applicant, who is also president of its wholly-owned subsidiary Lyon Van Lines, Inc.

While it appears that the interest rate on the proposed loan may be higher than normal and that the restrictions on pre-payment might be unduly burdensome, the Commission, in reviewing this matter, will give consideration to the fact that the proposed loan will cover the entire cost of constructing the warehouse building and that the building so constructed will not be used in applicant's public utility warehouse business.

The property to be encumbered by the proposed deed of trust will not be necessary or useful in the performance of applicant's duties to the public, therefore, pursuant to provisions of Section 851 of the Public Utilities Code, no

authorization from this Commission is required for the execution of said deed of trust. On the other hand, although the note proceeds will be expended entirely for nonutility purposes, Sections 817 and 818 of the Public Utilities Code require authority from this Commission before applicant may issue the \$95,000 note, and it appears that the indebtedness will have no adverse effect on the performance of applicant's duties to the public.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary, that the money, property or labor to be procured or paid for by the issue of the note 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. Lyon Van & Storage Co., a corporation, on or after the effective date hereof and on or before June 30, 1960, may issue a note in the principal amount of not to exceed \$95,000 for the purpose set forth in this application, which note shall bear interest at the rate of not to exceed 7-1/2% per annum and shall be repayable in monthly installments over a period not to exceed 16 years from date of issue.

2. Within 30 days after issuing the note herein authorized, applicant shall file with the Commission a copy thereof as actually issued.

3. This application insofar as it requests authority to execute a deed of trust is dismissed for want of jurisdiction.

4. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$95.

Dated at San Francisco, California,
this 16th day of FEBRUARY, 1960.

[Signature]
President
[Signature]
[Signature]
[Signature]
Theodore Jensen
Commissioners

