

ORIGINAL

Decision No. 65706

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GEORGE F. LLOYD TRANSPORTATION CO.,
to sell certain of its public utility
assets and its certificate of public
convenience and necessity and M & R
LEASING, INC. for authority to
purchase such assets and certificate
and to issue a chattel mortgage on
utility property.

Application No. 45469
Filed May 27, 1963

Marvin Handler for George F. Lloyd Transportation
Co.; Bertram S. Silver for M & R Leasing, Inc.;
Sidney J. Webb for the Commission staff.

O P I N I O N

George F. Lloyd Transportation Co., a corporation, and
M & R Leasing, Inc., have filed this application for an order
authorizing the transfer of operative rights and equipment and
the issue of a note.

A public hearing was held before Examiner Coleman in
San Francisco on June 24, 1963, at which time the matter was
taken under submission. The Commission has received no
protests in the proceeding.

George F. Lloyd Transportation Co. is a California corporation which is engaged in interstate and intrastate commerce as a highway common carrier of general commodities. It has obtained a certificate of public convenience and necessity from the Commission, granted to it by Decision No. 61185, dated December 13, 1960, in Application No. 42351, which authorizes operations generally between Sacramento and San Francisco Territory and between Los Angeles Basin Territory and Sacramento and intermediate points. It has registered such certificate with the Interstate Commerce Commission.

M & R Leasing, Inc., is a California corporation, organized on or about June 4, 1953, which is, and has been, engaged in leasing equipment to others. It now intends to discontinue its leasing business and to confine its activities to the conduct of the operations it seeks to acquire from George F. Lloyd Transportation Co.

It is reported that George F. Lloyd, the president and sole shareholder of George F. Lloyd Transportation Co., finds it necessary to withdraw from active business and that he has made arrangements for the sale of the corporation's operative rights, goodwill and operative equipment and inventory to M & R Leasing, Inc., for the sum of \$270,000, subject to adjustment for changes in inventory values. It appears that \$50,000 of the purchase price will be paid in cash and not to exceed \$220,000 will be represented by a note, secured by

mortgage of chattels, payable in forty-eight monthly installments with interest at the rate of 6% per annum.

In the agreement of sale, \$15,000 of the purchase price is assigned to the operative rights which, according to the testimony, represents approximately the costs of acquiring such rights; \$20,000 to the business goodwill, \$25,000 to inventory, and \$210,000 to the operative equipment which, so the testimony shows, is somewhat less than the estimated fair market values determined by independent appraisers.^{1/}

The record shows that the volume of business of George F. Lloyd Transportation Co. has been increasing, that during 1962 its revenues aggregated \$530,655, with net income of \$70,541, before depreciation and taxes, and that the revenues for the first six months of 1963 were substantially in excess of those for the corresponding period of 1962. The record further shows that M & R Leasing, Inc., is disposing of its present equipment, together with the related outstanding equipment contracts, and that it will enter upon its new operations, if authorized by the Commission, with a reasonably good financial structure, which includes proprietary capital of

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The uniform system of accounts provides that when a purchase is made from a nonaffiliated company, the carrier operating property acquired shall be recorded at the fair market value or the cost specified in the purchase agreement if the latter does not exceed the fair market value.

approximately \$160,000, and with ample working capital and a going business which, on the basis of recorded results of operation, should produce a cash flow of sufficient magnitude to meet the payments, principal and interest, of the obligations the company will incur. It appears, therefore, that the terms of the agreement of purchase and sale should not interfere with the transferee's ability to maintain the operations and to meet its public service obligations.

We find that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. An order will be entered granting the application.

The action taken herein shall not be construed to be a finding of the value of the operative rights and equipment herein authorized to be transferred nor indicative of amounts to be included in future proceedings for the purpose of fixing rates. M & R Leasing, Inc., is placed on notice that, by acquiring the certificate of public convenience and necessity under the authorization herein granted, it will be required, among other things, to file annual reports of its operations and to comply with and observe the rules and regulations set

forth in the Commission's general orders and that failure to file such reports in such form and at such time as the Commission may direct, or to comply with and observe the provisions of said general orders, may result in the cancellation of the operating authority.

M & R Leasing, Inc., is further placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On and after the effective date hereof and on or before December 31, 1963, George F. Lloyd Transportation Co. may sell and transfer and M & R Leasing, Inc., may purchase and acquire the operative rights and the equipment referred to in this application, and may execute a mortgage of chattels and a note in the principal amount of not to exceed \$220,000,

in part payment for said operative rights and equipment, said mortgage of chattels and note to be in the same form, or substantially the same form, as those annexed to the application.

2. Within thirty days after the consummation of the transfer herein authorized, M & R Leasing, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer and a report of the issue of the note as required by General Order No. 24-A.

3. M & R Leasing, Inc., shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein authorized to be transferred to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

4. The authority herein granted shall become effective when M & R Leasing, Inc., has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$220.

Dated at San Francisco, California,
this 16th day of JULY, 1963.

William L. Burns
President
John S. [unclear]
Robert [unclear]
George H. [unclear]
Fredrick B. Hallock
Commissioners

