

Decision No. 70165

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ALVIN A. GLINKE, an individual, to)
 transfer and of TTT, Inc., a)
 corporation, to acquire the)
 certificate of public convenience)
 and necessity and certain property)
 of ALVIN A. GLINKE.)

Application No. 48041
(Filed November 5, 1965)

O P I N I O N

Alvin A. Glinke requests authority to sell and transfer and TTT, Inc., requests authority to purchase and acquire certain property and certificated cement carrier authority.

The operating authority is prescriptive in nature and was described by Commission Resolution No. 13919, Sub. No. 2, dated August 11, 1964, in Application No. 46522. Said certificate authorizes the transportation of cement to and within the Counties of Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura from any and all points of origin. The property consists of a tractor and semitrailer.

According to the terms of the agreement, a copy of which is attached to the application as Exhibit B, the agreed cash consideration is \$15,500. A value of \$300 is placed upon the certificate, a value of \$200 is placed upon good will, and \$15,000 is the value placed upon the equipment. An independent appraisal attached to the application as Exhibit C, and made by the Ace Truck Sales, supports the value assigned the equipment. As of September 30, 1965, applicant purchaser indicated a net worth in the amount of \$89,069.92.

Because of the expense involved in serving copies of the application on approximately 150 existing carriers, it is requested that applicants be authorized to deviate from Rule 29(a) of the Commission's Rules of Procedure. It is further requested that the order authorizing the transfer be made effective upon the date of issuance.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The Commission concludes that the application should be granted to the extent set forth in the ensuing order.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

TTT, Inc. is hereby 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 or before June 1, 1966, Alvin A. Glinke may sell and transfer, and TTT, Inc., a corporation, may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, TTT, 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.

3. TTT, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein 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. 117.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, TTT, Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. Concurrent with the effective date of the tariff filings required by ordering paragraph 3 hereof, the operating authority described by Resolution No. 13919, Sub. No. 2, dated August 11, 1964, in Application No. 46522, is hereby revoked and in its place and stead a certificate of public convenience and necessity is hereby granted to TTT, Inc., authorizing it to operate as a cement carrier,

as defined in Section 214.1 of the Public Utilities Code, subject to the restriction and between the points particularly set forth in Appendix A attached hereto and made a part hereof.

6. Applicants are hereby authorized to deviate from the provisions of Rule 29(a) of the Commission's Rules of Procedure.

7. In all other respects, Application No. 48041 is hereby denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 4th day of JANUARY, 1966.

Fredrick B. Holliff
President
John D. Hill
George H. Trover
Augustus
William A. Bennett
Commissioners

TTT, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier to and within the Counties of Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura from any and all points of origin, subject to the following restriction:

Whenever TTT, Inc., engages other carriers for the transportation of property of United Ready Mixed Concrete Co., Inc., or Mobile Concrete Co., Inc., or customers or suppliers of said companies or corporations, TTT, Inc. shall not pay such other carriers rates and charges less than rates and charges published in TTT, Inc.'s tariffs on file with this Commission.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 70165, Application No. 48041.