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Decision No. 71967

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ROY STROUD, to sell,)
and of OLIVE TRANSPORTATION INC.,)
to acquire cement common carrier)
certificate and motor vehicle)
equipment, and for OLIVE)
TRANSPORTATION INC., to issue)
stock.)

Application No. 48746
(Filed August 26, 1966)

Amendment
(Filed November 21, 1966)

Lester L. Carden, for applicant Olive
Transportation Inc.
Raymond Heytens, for the Commission
staff.

O P I N I O N

Roy Stroud requests authority to sell, and Olive Transportation Inc. requests authority to acquire, a cement carrier certificate and motor vehicle equipment. Olive Transportation Inc. also requests authority to issue \$8,900 par value of its capital stock and a promissory note in the principal amount of \$6,248.50 and to execute a Security Agreement.

A public hearing was held before Examiner O'Leary at Los Angeles on November 3, 1966, at which time a request, made by applicants for time in which to amend the application, was granted. On November 21, 1966, an amendment to the application was filed and the matter was submitted as of that date.

Roy Stroud possesses a certificate of public convenience and necessity authorizing operations as a cement carrier from any and all points of origin to any and all points of destination within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, and San Diego. The certificate was granted by Commission Ex Parte Resolution No. 13825, Sub. No. 63.

The application states that Roy Stroud is going out of the trucking business and has offered to sell, assign and transfer, to Olive Transportation Inc., his cement carrier certificate for the sum of \$2,000 and his equipment for the sum of \$12,657.45. To finance the acquisition of such rights and equipment and to obtain working capital, Olive Transportation Inc. seeks authorization to issue \$8,900 aggregate par value of its common stock and to issue a promissory note in the amount of \$6,248.50, repayable in monthly installments of \$200 which include interest at the rate of six percent per annum on the unpaid principal, and to execute a Security Agreement.

After consideration, the Commission finds that:

1. The proposed transfer would not be adverse to the public interest. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Roy Stroud and the issuance of a certificate in appendix form to Olive Transportation Inc.

2. The money, property or labor to be procured or paid for by the issue of stock and note herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the application should be granted.

Olive Transportation 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.

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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.

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

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1967, Roy Stroud may sell and transfer, and Olive Transportation Inc. may purchase and acquire, the operative rights and property referred to in the application.

2. On or before July 1, 1967, Olive Transportation Inc. may issue not to exceed \$8,900 par value of its capital stock, at not less than par, for the purposes specified in the application as amended.

3. On or before July 1, 1967, Olive Transportation Inc. may issue a promissory note in the principal amount of not to exceed \$6,248.50 for the purposes specified in the application as amended, and may execute a Security Agreement. Such documents shall be in substantially the same form as those contained in the Amendment to Application.

4. Olive Transportation Inc. shall file with the Commission a report, or reports as required by General Order No. 24-B, which order, insofar as applicable is hereby made a part of this order.

5. Within thirty days after the consummation of the transfer herein authorized, Olive Transportation 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.

6. Olive Transportation Inc. shall file tariffs, in triplicate, in the Commission's office. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty 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.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Olive Transportation 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.

8. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Olive Transportation Inc., a corporation, authorizing it to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendix A attached hereto and made a part hereof.

9. The certificate of public convenience and necessity granted in paragraph 8 of this order shall supersede the certificate

of public convenience and necessity granted by Resolution No. 13825, Sub. No. 63, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 6 hereof.

10. In providing service pursuant to the certificate herein granted, Olive Transportation Inc. shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, Olive Transportation Inc. shall file a written acceptance of the certificate herein granted. Olive Transportation Inc. is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the provisions of General Order No. 100-D may result in a cancellation of the operating authority granted by this decision.
- (b) Olive Transportation Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission from time to time shall prescribe.

11. The authority herein granted to issue a note and to execute a security agreement will become effective when applicant has paid the minimum fee prescribed by Section 1904 (b) of the

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Public Utilities Code, which fee is \$25.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of FEBRUARY, 1967.

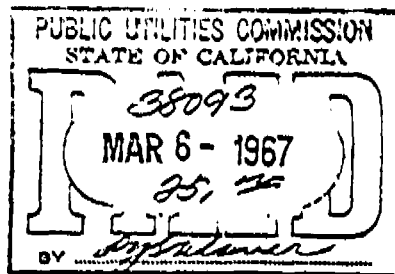
John P. Mitchell
President

William W. Bernard

Augustine

William Lyons

Fred P. Morrison
Commissioners



Olive Transportation 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 Kern, Los Angeles, Orange, Riverside, San Bernardino, and San Diego from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

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