

ORIGINALDecision No. 73262

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 JACK A. ULRICH, Trustee of the
 Estate of Jack Matheny, doing busi-
 ness as Matheny Trucking, bankrupt,
 to sell and transfer cement carrier
 certificate, and for CLAWSON TRUCK-
 ING COMPANY, INC., a California
 corporation, to purchase and ac-
 quire said cement carrier certifi-
 cate and remove suspension.

Application No. 49590
 Filed August 7, 1967

O P I N I O N

Jack A. Ulrich (Ulrich) is trustee of the bankrupt estate of the owner of Matheny Trucking. This certificate was created by Resolution No. 13825, Sub. No. 46, dated June 23, 1964. It authorizes service to and between all points in the counties of Fresno, Kern, Merced, San Joaquin, Stanislaus, Tuolumne and Yolo as a cement carrier.

Clawson Trucking Company, Inc., (Clawson) is a radial highway common carrier domiciled in Modesto. The organization has existed since the nineteen thirties; it has been a corporation since 1958. Its financial statements, attached to the application, indicate that it has ample financial resources to undertake service to the Matheny area.

Clawson seeks to purchase the Matheny right from Ulrich for \$1,400. The bankruptcy court has issued the necessary order confirming the sale.

The Matheny certificate has been suspended by two Commission resolutions, first by No. 15330 and by No. R-160. The order following will lift those suspensions and revoke the right granted

by Resolution No. 13825. A new appendix type certificate will be granted to Clawson authorizing service to the Matheny counties.

The Commission finds that:

1. The transfer proposed in Application No. 49590 would not be adverse to the public interest.

2. Clawson Trucking Company, Inc., has the financial resources, facilities, equipment, experience and personnel to transport cement to and within Fresno, Kern, Merced, San Joaquin, Stanislaus, Tuolumne and Yolo Counties from any and all points of origin.

3. Public convenience and necessity require that a certificate be granted to Clawson Trucking Company, Inc., to transport property as a cement carrier to and within the counties of Fresno, Kern, Merced, San Joaquin, Stanislaus, Tuolumne and Yolo Counties from any and all points of origin.

4. A public hearing is not necessary.

The Commission concludes that:

1. The sought transfer should be granted.

2. The present operating authority of Jack Matheny, doing business as Matheny Trucking, should be revoked upon consummation of the transfer.

3. A certificate of public convenience and necessity as a cement carrier should be granted to Clawson Trucking Company, Inc., as provided by the following order.

Clawson Trucking Company, Inc., a corporation, 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.

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

O R D E R

IT IS ORDERED that:

1. The suspensions of the operating right of Jack Matheny imposed by Resolutions Nos. 15330 and R-160 are vacated concurrently with the effective date of tariff filings required by ordering paragraph 4 hereof.
2. On or before December 31, 1967, Jack A. Ulrich, Trustee of the Estate of Jack Matheny, doing business as Matheny Trucking, bankrupt, may sell and transfer, and Clawson Trucking Company, Inc., may purchase and acquire, the cement carrier certificate of public convenience and necessity referred to in the application, in accordance with the terms set forth in the application, but subject to the terms of this order.
3. Within thirty days after the consummation of the transfer herein authorized, Clawson Trucking Company, 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.
4. Clawson Trucking Company, Inc., shall file tariffs in triplicate with the Commission, naming rates and rules governing the common carrier operations authorized herein. 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.

5. Concurrently with the effective date of the tariff filings required by ordering paragraph 4 hereof, the operative right granted by Resolution No. 13825, Sub. No. 46, dated June 23, 1964, is revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a cement carrier is granted Clawson Trucking Company, Inc., as particularly set forth in Appendix A, attached hereto and made a part hereof.

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

Dated at San Francisco, California, this 27th day of OCTOBER, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

Commissioner William Synons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Clawson Trucking Company, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a cement carrier to and within the counties of Fresno, Kern, Merced, San Joaquin, Stanislaus, Tuolumne and Yolo from any and all points of origin.

Issued by California Public Utilities Commission.

Decision No. 73262, Application No. 49590.