

ORIGINAL

Decision No. 74897

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
KIRBY FIBERGLASS, INC., doing busi-
ness as K. F. Trucking to transfer
cement carrier certificate, and
J. L. TRUCKING COMPANY, a California
corporation, to acquire said certif-
icate and operate as a cement carrier.

Application No. 50487
Filed August 16, 1968

O P I N I O N

The application indicates applicant as Kirby Fibreglass, Inc., whereas the Articles of Incorporation in the Commission's file indicates Kirby Fiberglass, Inc. Therefore, this decision will treat the name as it appears in the Articles of Incorporation.

It is alleged that applicant Kirby Fiberglass, Inc., doing business as K. F. Trucking, is a cement carrier as defined in Section 214.1 of the Public Utilities Code, authorized to transport cement in and between Los Angeles and Orange Counties.

It is further alleged that Herbert Kirby is the president and principal stockholder in each of the applicants and that the transfer of the cement carrier authority, originally granted by Commission Resolution No. 13823, Sub. 17, dated June 23, 1964, in Application No. 46415, will simplify the operation of both applicants since all trucking operations are now to be performed by the J. L. Trucking Company, a California corporation.

It is further alleged that no stock or money will be paid for the transfer of the certificate and that the rates to be charged are presently those charged by K. F. Trucking as listed in and on file with the Commission in Pacific Coast Tariff Bureau

Local Freight Tariff No. 9, Cal. P.U.C. No. 30. There will be no participation in joint rates with any other carrier.

The Commission has considered this matter and finds that the proposed transfer would not be adverse to the public interest and that a public hearing is not necessary. On the basis of these findings we conclude that the application should be granted.

J. L. Trucking Company 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 January 1, 1969, Kirby Fiberglass, Inc., dba K. F. Trucking, may transfer and J. L. Trucking Company, a corporation, may acquire the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, transferee shall notify the Commission, in writing, of the 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. Transferee shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, transferee 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 transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to J. L. Trucking Company, a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Commission Resolution No. 13823, Sub. 17, dated June 23, 1964, which certificate is

revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant 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 the insurance requirements of the Commission's General Order No. 100-E.
- b. Applicant 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.

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

Dated at San Francisco, California, this 6th day of NOVEMBER, 1968.

William J. Sproul Jr.
President
John E. L. L. L. L. L.
William C. Burnett
Augusta
Jack P. Morrissey
Commissioners

J. L. Trucking Company, a corporation, 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 from any and all points of origin to all points and places within the counties of Los Angeles and Orange, subject to the following restrictions:

1. Whenever J. L. Trucking Company, a corporation, engages other carriers for the transportation of property of Kirby Fiberglass, Inc. or customers or suppliers of said corporation, J. L. Trucking Company shall not pay such other carriers rates and charges less than the rates and charges published in J. L. Trucking Company's tariffs on file with the Commission for the transportation actually performed by such other carriers.
2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

End of Appendix A

Issued by California Public Utilities Commission.

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