

**ORIGINAL**

Decision No. 78949

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) DANIEL LOHNES TRUCKING CO., INC.,  
 a corporation, to purchase, and of  
 MYRTLE E. W. LOHNES, an individual  
 doing business as DANIEL LOHNES TRUCK-  
 ING COMPANY, to sell, a cement carrier  
 certificate authorizing service to and  
 within the Counties of Fresno, Imperial,  
 Inyo, Kern, Los Angeles, Merced, Orange,  
 Riverside, Sacramento, San Bernardino,  
 San Diego, San Luis Obispo, Santa  
 Barbara, Tulare and Ventura, in the  
 State of California, pursuant to  
 Sections 851-853 of the California  
 Public Utilities Code.

Application No. 52666  
(Filed June 4, 1971)

(b) DANIEL LOHNES TRUCKING CO., INC.,  
 a corporation, to issue shares of its  
 common capital stock, pursuant to  
 Sections 816-830 of the California  
 Public Utilities Code.

O P I N I O N

Myrtle E. W. Lohnes, doing business as Daniel Lohnes Trucking Company, requests authority to transfer all of the assets of her trucking operations, including a certificate of public convenience and necessity authorizing operations as a cement carrier, to Daniel Lohnes Trucking Co., Inc., a newly formed corporation of which she is president. It is also requested that Daniel Lohnes Trucking Co., Inc. be authorized to issue 1,075 shares of its no par value common capital stock to Myrtle E. W. Lohnes in consideration for the transfer.

The certificate was granted by Commission Resolution No. 13825, dated June 23, 1964, in Application No. 46893, and authorizes the transportation of cement to various counties within the state.

As of March 31, 1971, applicant seller indicated a net worth in the amount of \$43,891.94.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the property to be procured or paid for by the issue of the stock 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. A public hearing is not necessary.

Daniel Lohnes Trucking Co., 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. 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.

ORDER

IT IS ORDERED that:

1. On or before May 1, 1972, Myrtle E. W. Lohnes may sell and transfer, and Daniel Lohnes Trucking Co., Inc. 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, purchaser 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. Purchaser 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 five days after the effective date of this order on not less than five 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. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authority granted by this decision.

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

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13825, dated June 23, 1964, in Application No. 46893, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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-F.

7. Purchaser 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.

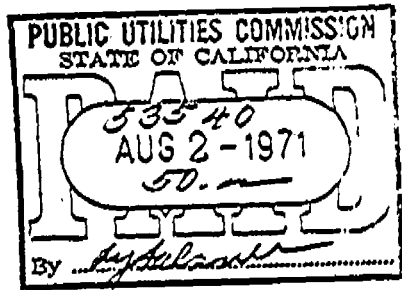
8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Daniel Lohnes Trucking Co., Inc. is authorized to issue 1,075 shares of its no par value common capital stock to Myrtle E. W. Lohnes.

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

The authority herein granted to issue stock will become effective when purchaser has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup> day of JULY, 1971.



William Simon Chairman  
[Signature]  
Laura L. Sturgeon

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

-4- Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Daniel Lohnes Trucking Co., Inc., 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 as defined by Section 214.1 of the Public Utilities Code from any and all points of origin to all points and places within the Counties of:

Fresno, Imperial, Inyo, Kern, Los Angeles, Merced, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare and Ventura.

Note: 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.

Decision No. 78949, Application No. 52666.