

ORIGINAL

Decision No. 80212

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Dan Jackson, an individual doing
business under the firm name and
style of Dan Jackson, to transfer
petroleum irregular route carrier
authority,

and
B & J Transportation Inc., a
California corporation, to acquire
said operating rights and assets,
assumes liabilities and issue
capital stock.

Application No. 53138
(Filed February 10, 1972)

O P I N I O N

By this application Dan Jackson seeks authority to transfer and B & J Transportation Inc. (B & J) seeks authority to acquire certain petroleum irregular route carrier authority and to issue stock.

Dan Jackson, who maintains his principal place of business at Carson, California, presently is engaged primarily in the specific business of transportation of refined petroleum products, authorized by Decision No. 64524. Said decision permitted operation as a petroleum irregular route carrier for the transportation of petroleum and petroleum products in the State of California.

B & J has purchased, subject to Commission's approval, the operating authority, issued to Dan Jackson, under Decision No. 64524, and the highway vehicles and other operating property and assets. It assumes the outstanding indebtedness of Dan Jackson.

In order to consummate the purchase of said operating rights, B & J seeks authority, pursuant to Sections 817 and 818 of the Public Utilities Code to issue 250 shares of its capital stock at par value of \$100 per share for the acquisition of the property of Dan Jackson. The total number of shares which is authorized to be

issued is 250 shares, all of which are to be one class. The aggregate par value of all of said shares is \$25,000.

Applicants herein request authority pursuant to Sections 851-353 of the Public Utilities Code to transfer from Dan Jackson all of the operating authority now held by him, together with other assets, including all highway vehicles and other operating property registered with the Commission, and for B & J to acquire all of the operating authority, together with other assets, including all highway vehicles and operating property and to assume certain liabilities.

The transaction herein sought to be accomplished results from Dan Jackson's desire that his operation be conducted in the future under a corporate form of organization. B & J was organized under the laws of the State of California on or about November 20, 1970. The transfer of the proprietorship assets to the corporation was made on December 1, 1970.

Dan Jackson proposes to continue to conduct the operations as a corporation under the trade name and style of B & J Transportation, Inc., without change.

Operation under the rights sought to be transferred is presently being conducted by Dan Jackson and there has been no suspension or discontinuance of service during the preceding three years. Dan Jackson has on file with this Commission appropriate tariffs (Western Motor Tariff Bureau Nos. 16, 18, and 19) covering the motor transportation of the commodities as described, and is not a party to through routes or joint rates with any other carrier. No additional equipment will be necessary for the immediate future, and the equipment to be used in the performance of the service is presently owned, operated or leased by Dan Jackson.

Applicants allege that the proposal herein made is consistent with the public interest and will promote the same for the following reasons, among others:

- (a) B & J is adequately financed and its principals possess the necessary experience to carry on and conduct the common carrier activities heretofore carried on by Dan Jackson.

- (b) There will be no adverse affect on any other carrier, or upon the shipping public, resulting from the transfer of the present operating authority. The transfer herein prayed will merely establish continuity of management and service to the public.
- (c) B & J will continue to be an employer of experienced and trained personnel, having full knowledge of the physical transportation of the commodities authorized and full knowledge of the Commission's safety rules and regulation.

There were no protests. After consideration the Commission finds that:

1. Public hearing is not necessary.
2. 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 Dan Jackson and the issuance of a certificate in appendix form to B & J Transportation, Inc.
3. The money, property or labor 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.

The Commission concludes that the application should be granted.

B & J 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. Aside from their purely permissive aspect, these 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.

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. Dan Jackson may sell and transfer, and B & J Transportation, Inc. may purchase and acquire, the operative rights and property referred to in the application.

2. B & J Transportation, Inc. may issue not to exceed \$25,000 par value of its capital stock at not less than par for the purpose specified in the application.

3. B & J 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.

4. Within thirty days after the consummation of the transfer herein authorized, B & J 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.

5. B & J Transportation, Inc. 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. 80-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser 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.

7. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to B & J Transportation, Inc., a corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, as set forth in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in paragraph 7 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 64524, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5 hereof.

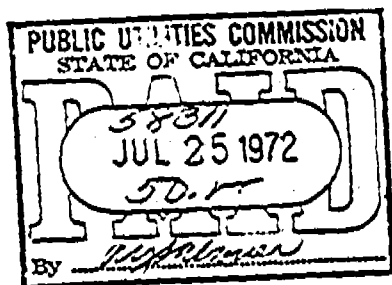
9. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

10. 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.

11. Purchaser shall comply with the requirements of the Commissions'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.

The authority herein granted to issue stock will become effective when applicant has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 27th day of JUNE, 1972.



William L. Stinger Chairman
William L. Stinger
Thomas L. Stinger
Thomas L. Stinger Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

B & J Transportation 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 petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

RESTRICTION:

Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 80212, Application No. 53138.