

ORIGINAL

Decision No. 81393

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Rossi Transportation Inc., and Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly doing business as Arvo Lyly and Sons for authority to sell and transfer operating rights of a Highway Common Carrier and for issuance of evidence of indebtedness.

Application No. 54175
(Filed July 16, 1973)

O P I N I O N

Rossi Transportation, Inc. (Rossi) requests authority to sell and transfer, and Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly, a partnership doing business as Arvo Lyly & Sons, (Lyly) requests authority to purchase and acquire the certificate of public convenience and necessity which authorizes operations as a highway common carrier. Applicant purchasers also request authority to execute a promissory note in the amount of \$12,000 payable in monthly installments of \$300 including interest at the rate of 7 percent per annum on the decreasing principal balance.

The certificate was acquired by Decision No. 60268 dated June 14, 1960 in Application No. 41955. The operative rights authorize the transportation of lumber and forest products between the San Francisco Territory and Arcata - Fort Bragg area, and between the Los Angeles Territory and the Fort Bragg area.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the proposed indebtedness is for a proper purpose that is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. The order which follows will provide for, in the event the transfer is consummated, the revocation of

the certificate presently held by Rossi Transportation Inc. and the issuance of a certificate in appendix form to Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly, a partnership doing business as Arvo Lyly & Sons.

The certificate will be restated, but such restatement will not change or broaden the authority transferred.

Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly, a partnership doing business as Arvo Lyly & Sons are 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.

O R D E R

IT IS ORDERED that:

1. On or before March 31, 1974, Rossi Transportation, Inc. may sell and transfer the operative rights referred to in the application to Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly, a partnership doing business as Arvo Lyly & Sons.
2. Within thirty days after the transfer the purchasers shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established, as their own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Arvo A. Lyly, Arnold A. Lyly, and Alvin A. Lyly, a partnership doing business as Arvo Lyly & Sons, authorizing them to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity acquired by Decision No. 60268 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchasers shall comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

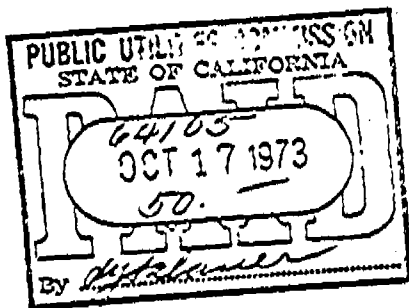
7. Purchasers shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

10. On or after the effective date hereof and on or before March 31, 1974, for the purposes specified in this matter, purchasers may issue a promissory note in the principal amount of not exceeding \$12,000, and may execute and deliver the encumbering documents, which documents shall be in substantially the same form as those attached to the application.

The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$50.00. In other respect the effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 16th day of OCTOBER, 1973.



Yermon L. Shroyer
President
William Synors, Jr.
[Signature]
Commissioners

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

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

Arvo A. Lyly, Arnold A. Lyly and Alvin A. Lyly, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of Lumber and Forest Products, viz.:

Forest Products, whether or not creosoted or otherwise chemically treated, viz.:

Atmospheric Water Cooling Towers, knocked down, and Iron or Steel Fixtures for same, consisting of Castings, Tie Rods not exceeding 30 feet in length, and Turn-buckles, weight of such fixtures not to exceed 10% of the total weight of shipment,
Bark,
Bee Hives, knocked down,
Blocks, wooden paving, creosoted or uncreosoted,
Bolts, wooden,
Brackets, insulator (wooden),
Cants, wheel, wooden, in the rough,
Covers, guy wire,
Cross Arms, wooden, with or without riveted ends, and with or without wooden pins attached,
Heading,
Honey Box Lumber,
Lath,
Lumber,
Pencil Slats,
Pickets,
Piles,
Pins, Insulator,
Pipe Material, wooden,
Pipe, wooden,
Poles, plant, plain, creosoted or stained,
Poles, telegraph and telephone,
Posts,

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Sawdust,
Shakes,
Shavings,
Shingles,
Ship Knees,
Shook, box and crate,
Silo Material, wooden, and Fixtures,
Stakes, Plain, creosoted or stained,
Staves,
Steps, pole (wooden),
Stock, battery separator, machined, viz.: grooved,
furrowed or corrugated, not treated with caustic
soda, asphaltum or other solution,
Tank Material, wooden, and Fixtures,
Ties, railroad,
Timbers, rough,
Timbers, mining,
Wedges, mine.

- (1) Between the San Francisco Territory, as described in Note A, on the one hand, and Arcata and Fort Bragg, including points within a 25-mile radius of Arcata and Fort Bragg, on the other hand.
- (2) Between the Los Angeles Territory, as described in Note B, on the one hand, and Fort Bragg, including points within a 25-mile radius of Fort Bragg, on the other hand.

Such authority does not include the right to render service from, to or between intermediate points.

Note A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero

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Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Miles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

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Note B

LOS ANGELES TERRITORY

The Los Angeles Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the City of San Fernando); thence southeasterly along State Highway 118 to and including the City of Pasadena; thence easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street, south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boulevard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

(END OF APPENDIX A)

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