

ORIGINAL

Decision No. 82070

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of LORIN JOHN McCORKINDALE, an individual, to sell, and of FLEETWAY CEMENT SERVICE, INC., a corporation, to purchase, a portion of a cement carrier certificate authorizing service to and within the County of San Bernardino, in the State of California, pursuant to Section 851-853 of the California Public Utilities Code.

Application No. 54276
(Filed August 23, 1973)

In the matter of the application of LORIN JOHN McCORKINDALE, an individual, to sell, and of COMPTON PLASTER COMPANY, INC., a corporation, to purchase, a portion of a cement carrier certificate authorizing service to and within the Counties of Fresno, Kern, Riverside, San Diego, Santa Barbara, Tulare and Ventura, in the State of California, pursuant to Sections 851-853 of the California Public Utilities Code.

Application No. 54294
(Filed August 31, 1973)

In the matter of the application of LORIN JOHN McCORKINDALE, an individual, to sell, and of DC EQUIPMENT CORPORATION, a corporation, to purchase, a portion of a cement carrier certificate authorizing service to and within the Counties of Los Angeles and Orange, in the State of California, pursuant to Sections 851-853 of the California Public Utilities Code.

Application No. 54295
(Filed August 31, 1973)

O P I N I O N

Lorin John McCorkindale requests authority to sell and transfer portions of a certificate of public convenience and necessity authorizing operations as a cement carrier to Fleetway Cement Service, Inc., Compton Plaster Company, Inc., and DC Equipment Corporation.

The certificate was granted by Resolution No. 13825 dated June 23, 1964, Sub No. 58 and authorizes the transportation of cement to and within the counties of Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Tulare, and Ventura. By the terms of the agreements attached to the applications, Fleetway Cement Service, Inc. would acquire seller's rights in the county of San Bernardino for a cash consideration of \$1,250; DC Equipment Corporation would acquire seller's rights in the counties of Los Angeles and Orange for a cash consideration of \$3,000; and Compton Plaster Company, Inc. would acquire seller's rights in the counties of Fresno, Kern, Riverside, San Diego, Santa Barbara, Tulare, and Ventura for a cash consideration of \$7,000. In addition thereto, applicant seller proposes to transfer to Compton Plaster Company, Inc. certain cement bottom-dump trailer equipment for a cash consideration of \$6,250.

Fleetway Cement Service, Inc. is presently authorized by Decision No. 78387 dated March 2, 1971 in Application No. 51809, and Decision No. 77117 dated April 21, 1970 in Application No. 51664 to transport shipments of cement to and within the counties of Alameda, Contra Costa, Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Riverside, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Sonoma, Ventura, and Yolo. As of December 31, 1972, it indicated a net worth in the amount of \$49,287.

By Commission Resolution No. 13835 dated June 30, 1964, Sub. No. 3, Compton Plaster Company, Inc. was authorized to transport shipments of cement to and within the counties of Los Angeles and Orange. As of June 30, 1973, it indicated a net worth in the amount of \$323,409.

DC Equipment Corporation is a newly formed corporation and its president has had over 10 years' experience in the transportation of cement as the general manager of a cement carrier. As of May 4, 1973, it indicated assets in the amount of \$16,666 and liabilities in the same amount for cash advances and for the transfer of motor vehicle equipment by the incorporators.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest and concludes that they should be authorized. We further find with reasonable certainty that the projects involved in these proceedings will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfers are completed, the revocation of the certificates presently held by Lorin John McCorkindale, Fleetway Cement Service, Inc. and Compton Plaster Company, Inc. and the issuance of certificates in appendix form to Fleetway Cement Service, Inc., Compton Plaster Company, Inc., and DC Equipment Corporation.

Fleetway Cement Service, Inc., Compton Plaster Company, Inc., and DC Equipment Corporation 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 April 1, 1974, Lorin John McCorkindale may sell and transfer the operative rights and property as referred to in the application to Fleetway Cement Service, Inc., Compton Plaster Company, Inc., and DC Equipment Corporation.
2. Within thirty days after the transfer the purchasers shall file with the Commission written acceptances of the certificates and a true copy of the bills of sale or other instruments 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 respective 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. 117-Series. Failure to comply with the provisions of General Order No. 117-Series may result in a cancellation of the respective operating authority as granted by this decision.
4. On or before the end of the third month after the transfers, the purchasers 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 last concluded transfer.
5. In the event the transfers authorized in paragraph 1 are completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Fleetway Cement Service, Inc.,

Compton Plaster Company, Inc., and DC Equipment Corporation, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A, B, and C, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted by Decision No. 78387 dated March 2, 1971 in Application No. 51809, Decision No. 77117 dated April 21, 1970 in Application No. 51664, Resolution No. 13835 dated June 30, 1964, Sub. No. 3, and Resolution No. 13825 dated June 23, 1964, Sub. No. 58, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

8. 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, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

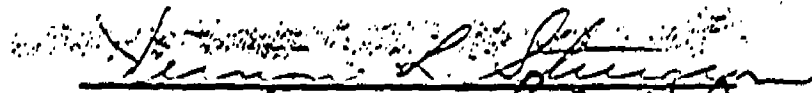
9. Purchasers shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of

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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.

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

Dated at San Francisco, California, this 30th
day of OCTOBER, 1973.



President


Commissioners

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

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

Fleetway Cement Service, 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 as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the Counties of Alameda, Contra Costa, Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Sonoma, Ventura and Yolo, subject to the following restrictions:

Whenever Fleetway Cement Service, Inc. engages other carriers for the transportation of property of Fleetway Cement Service, Inc. and/or GREENE'S READY MIXED CONCRETE CO., or customer or suppliers of said corporations, Fleetway Cement Service, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Fleetway Cement Service, Inc.'s tariffs on file with this Commission.

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. 82070, Application No. 54276.

Compton Plaster 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 as defined in 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, Kern, Los Angeles, Orange, Riverside, San Diego, Santa Barbara, Tulare and Ventura, subject to the following restrictions:

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

Whenever Compton Plaster Company, Inc., engages other carriers for the transportation of property of Compton Plaster Company, Inc., and/or Cement Transport Co., and/or Chandlers Palos Verdes Sand and Gravel Co., or customers or suppliers of said corporations, Compton Plaster Company, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Compton Plaster Company, Inc.'s tariffs on file with this Commission.

(End of Appendix B)

Issued by California Public Utilities Commission.

Decision No. 82070, Application No. 54294.

DC Equipment 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 in Section 214.1 of the Public Utilities Code, 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:

Whenever DC Equipment Corporation engages other carriers for the transportation of property of James Golson, and/or Albert Mendel, Jr., and/or Rulon Hanson, and/or DC Equipment Corporation, and/or Alco Oil, Inc., and/or Desert Construction Co. or customers or suppliers of said individuals or corporation, DC Equipment Corporation, shall not pay such other carriers rates and charges less than the rates and charges published in DC Equipment Corporations' tariffs on file with this Commission.

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(End of Appendix C)

Issued by California Public Utilities Commission.

Decision No. 82070, Application No. 54295.