

82247

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
(a) ALLEC MATERIALS & TRUCKING, INC.,
a corporation, for authority to issue
shares of its common capital stock
pursuant to Section 816-830 of the
California Public Utilities Code; and
(b) MICHAEL J. ALLEC, an individual,
doing business as M. J. ALLEC TRUCKING,
to sell, and ALLEC MATERIALS & TRUCKING,
INC., a corporation, to purchase cement
carrier operating rights and property
pursuant to Section 851-854 of the Cali-
fornia Public Utilities Code.

Application No. 54403
(Filed October 23, 1973)

O P I N I O N

Michael J. Allec, doing business as M. J. Allec Trucking, requests authority to sell and transfer, and Allec Materials & Trucking, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a cement carrier. Applicant purchaser also requests authority to issue 10,000 shares of its \$1.00 par value capital stock.

The certificate was granted by Decision No. 75684 dated May 20, 1969 in Application No. 50859 and authorizes the transportation of shipments of cement to and within the counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

Applicant purchaser was incorporated on January 10, 1972. Its articles of incorporation authorize 25,000 shares of \$1.00 par value stock; however, it has no shares of stock either issued or outstanding. Applicant purchaser proposes to issue 10,000 shares of its capital stock for the following considerations:

1. Issue 6,700 shares to M. J. Allec in consideration for the certificate.
2. Issue 2,500 shares to Leonard W. Harris in consideration of the discharge of applicant purchaser's indebtedness to him in the amount of \$2,500.
3. Issue 800 shares to M. J. Allec in consideration of the discharge of applicant purchaser's indebtedness to him in the amount of \$800.

As of December 31, 1972, applicant seller indicated a net worth in the amount of \$54,786.

It is alleged that applicant purchaser proposes to continue the operations of applicant seller; that it will continue to use the same equipment and will employ the same personnel; and that it will continue to have the services of applicant seller, who is now president of applicant purchaser.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding 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 transfer is completed, the revocation of the certificate presently held by Michael J. Allec and the issuance of a certificate in appendix form to Allec Materials & Trucking, Inc.

We further find that the proposed issuances of stock are for proper purposes. The money, property, or labor to be procured or paid for by the issuance of the stock authorized by this decision are reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

Allec Materials & Trucking, Inc. is 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 August 1, 1974, Michael J. Allec may sell and transfer the operative rights and property referred to in the application to Allec Materials & Trucking, Inc.
2. Within thirty days after the transfer, the purchaser 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. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its 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. 117-Series. Failure to comply with the provisions of General Order No. 117-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 Allec Materials & Trucking, Inc., authorizing it to operate as a cement carrier, as defined in Section 214.1 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 granted by Decision No. 75684 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

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.

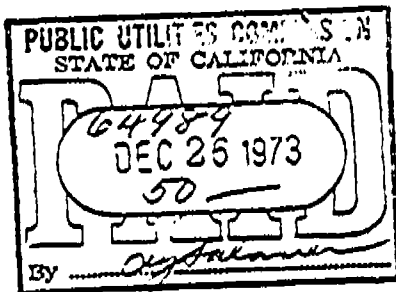
8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. After the effective date hereof, purchaser may issue 10,000 shares of its capital stock for the purposes specified in the application.

10. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

The authority granted by this order to issue stock will become effective when the issuer has paid the minimum 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 five days after the date hereof.

Dated at San Francisco, California, this 18th day of DECEMBER, 1973.



William Syman President
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Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

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

Allec Materials & Trucking, 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 any and all points in the Counties of:

Kern, Los Angeles, Orange, Riverside, San Bernardino, and San Diego

RESTRICTION: Whenever Allec Materials & Trucking, Inc., engages other carriers for the transportation of property of Michael J. Allec and/or Allec Materials & Trucking, Inc., or customers or suppliers of said individual or corporation, Allec Materials & Trucking, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Allec Materials & Trucking, 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. 82247, Application No. 54403.