

ORIGINAL

Decision No. 83310

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DRYWALL APPLICATORS)
INC. and/or L. A. Winchell to
control J.L. Trucking Company,
a California corporation.

Application No. 54977
(Filed June 20, 1974)

O P I N I O N

Pursuant to Section 854 of the Public Utilities Code, Drywall Applicators, Inc., a California corporation, requests authority to acquire from J & R Builders Supply, Inc. all of the stock interest of J.L. Trucking Company, a certificated cement carrier.

J.L. Trucking Company is presently authorized to transport shipments of cement to and between points in the counties of Los Angeles and Orange, pursuant to Decision No. 74897 dated November 6, 1968 in Application No. 50487. The agreed cash consideration for the stock transfer is \$6,000. As of April 30, 1974 Drywall Applicators, Inc. indicated a net worth in the amount of \$197,692.

It is alleged that Drywall Applicators, Inc., also known as Canoga Builders Supplies, is experienced in the transportation of building materials, including cement, for its own account and wishes to expand its operations so as to provide for the transportation of cement for others.

After consideration the Commission finds that the proposed stock acquisition would not be adverse to the public interest. A public hearing is not necessary.

The certificate of public convenience and necessity authorizing operations as a cement carrier granted to J.L. Trucking Company contains an alter-ego restriction which reflects corporate relationships that existed at the time the authority was issued.

These relationships will change in the event the authority granted by the order which follows is exercised. Therefore, the certificate will be amended to show the revised restriction and J.L. Trucking Company will be ordered to amend its tariff to reflect this.

Drywall Applicators, 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. After the effective date hereof Drywall Applicators, Inc. may purchase and acquire all of the capital stock of J.L. Trucking Company.
2. Within ten days after completion of the transfer of stock herein authorized applicants shall file with the Commission a copy of the document evidencing the execution of said transfer.
3. In the event the transaction authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 4, Appendix A of Decision No. 74897 dated November 6, 1968 in Application No. 50487 is amended by incorporating First Revised Page 1, attached hereto, in revision of Original Page 1.

A. 54977 JR

4. Within one hundred twenty days after the effective date of this order, J.L. Trucking Company shall amend its tariff on file with the Commission to reflect the authority herein granted. 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.

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

Dated at San Francisco, California, this 20th
day of AUGUST, 1974.

William L. Lippman
President
William L. Lippman
William L. Lippman
William L. Lippman
Commissioners

Appendix A
(D. No. 74897)

J.L. TRUCKING COMPANY
(a California corporation)

First Revised Page 1
Cancels
Original Page 1

J.L. Trucking Company, 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 J.L. Trucking Company engages other carriers for the transportation of property of L. A. Winchell and/or J.L. Trucking Company and/or Drywall Applicators, Inc., or customers or suppliers of said individual or corporations, J.L. Trucking Company, shall not pay such other carriers rates and charges less than the rates and charges published in J.L. Trucking Company'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.

Issued by California Public Utilities Commission.

Amended by Decision No. 83310, Application No. 54977.