

Decision No. 85776**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of OWL ROCK PRODUCTS CO., a)
 corporation, to transfer and)
 VALENCIA TRUCKING CORPORATION,)
 a corporation, to acquire a)
 cement carrier certificate.)

Application No. 56147
 (Filed December 6, 1975
 Amended January 8, 1976)

O P I N I O N

Owl Rock Products Co., a California corporation, (seller), requests authority to sell and transfer, and Valencia Trucking Corporation, a California corporation, (purchaser), requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier to and within all points and places in the Counties of Riverside and San Bernardino.

The certificate was granted by Decision 84200, dated March 18, 1975, in Application 46451.

Applicant purchaser presently holds a cement carrier certificate issued by Decision 76614, dated December 30, 1969, in Application 51468, which authorizes operations to and within the Counties of Los Angeles and Orange. It also holds permitted highway carrier operating authorities. Applicant seller has provided documentary evidence that it has exercised the certificate during the twelve months immediately preceeding the filing of the application.

By amended application, James L. Beckett, President of the transferee, seeks authority to control Valencia Trucking Corporation by purchase of all issued and outstanding shares of capital stock from the corporation's sole stockholder Bob G. Shirey.

The transaction underlying the request for sale and transfer of the certificate and authority to control the same corporation includes:

1. Agreement of November 10, 1975 (Exhibit B to the Application) for sale of certain highway equipment to James L. Beckett for the sum of \$115,000.00 and an additional \$4,000 for the certificate. The terms of the sale are cash payable at the time Commission's order authorizing the sale and transfer is effective. Under this agreement purchaser may establish or acquire a business or a corporation for the purpose of hauling bulk cement. In such event, purchaser may assign or otherwise transfer his rights under the agreement to such business or corporation.
2. Agreement of November 12, 1975 (Exhibit A of the amended application) for James L. Beckett to purchase 750 shares of common stock issued by Valencia Trucking Corporation for the sum of \$19,000.00.
3. Lease agreement of December 18, 1975 (Exhibit B of the application) between James L. Beckett and John E. Beckett, lessors, and Valencia Trucking Corporation, lessee, concerning the lease of certain highway equipment for a period of 5 years at the amount of \$4,004.42 per month.

Applicant seller participates in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21) which applicant purchaser proposes to adopt effective with consummation of the proposed transfer. Applicants allege that the officers of Valencia Trucking Corporation have participated for many years in the transportation of cement within this State and that transferee is adequately financed and possesses the necessary experience and equipment to carry on and conduct the common carrier activities formerly engaged in by transferor.

Purchaser's balance sheet of November 30, 1975 (Exhibit 23 to the application) shows assets of \$29,000, no liabilities and net worth of \$29,000. The balance sheets of James L. Beckett and John A. Beckett (Exhibit 2 to the application), dated November 6, 1975, show net worth of \$139,189 and \$127,000 respectively.

Applicants have requested relief from the provisions of the Commission's Rules of Practice and Procedure which require that copies of the application be widely disseminated. It is alleged that copies of the application were mailed to parties known to have an interest in the sale and transfer of cement carrier certificates. Notice of the filing of the application was made in the Commission's Daily Calendar of December 29, 1975. It is further alleged that the deviation is justified to secure speedy, economical and efficient relief. No protests to the application have been received.

After consideration, the Commission finds:

1. The requested deviation from its Rules of Practice and Procedure should be authorized.
2. The proposed transfer would not be adverse to the public interest.
3. The equipment proposed to be obtained from transferor will no longer be necessary or useful in the performance of transferor's duty to the public as a public utility.
4. The acquisition of control of Valencia Trucking Corporation by James L. Beckett would not be adverse to the public interest.

The Commission concludes that the application as amended should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the certificate of public convenience and necessity and equipment to be transferred.

The order which follows will provide for, in the event the transfer is completed, the revocation of the cement carrier certificates presently held by Owl Rock Products Co., and Valencia Trucking Corporation and the issuance of a certificate in appendix form to the latter company.

Purchaser 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 cancelled 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 September 1, 1970, Owl Rock Products Co., may sell and transfer the operative rights and related assets referred to in the application to Valencia Trucking Corporation, a California corporation.
2. Within thirty days after the transfer 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. James L. Beckett may control Valencia Trucking Corporation, a California corporation.
4. Within ninety days after the date hereof, James L. Beckett and Valencia Trucking Corporation shall file reports informing the Commission whether or not the control authorized has been completed.

5. 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 117-Series. Failure to comply with the provisions of General Order 117-Series may result in a cancellation of the operating authority granted by this decision.

6. 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 Valencia Trucking Corporation, a California corporation, authorizing it to operate as a highway common 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.

7. The certificates of public convenience and necessity granted by Decision 76614 and Decision 94200 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

8. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

9. 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 each year file with the Commission, an annual report of its operations in such forms, content, number of copies and on such dates as the Commission, from time to time, shall prescribe.

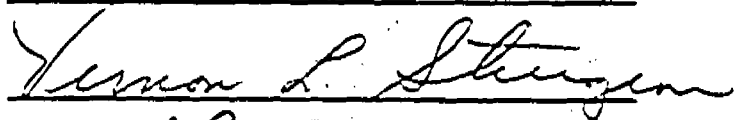
10. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collection on delivery shipments. If transferee elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

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

Dated at San Francisco, California, this 14 day of May, 1976.


President







Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A

VALENCIA TRUCKING CORPORATION
(a California corporation)

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Valencia Trucking Corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate 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, Orange, Riverside and San Bernardino.

RESTRICTION:

1. 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 85776, Application 56147.