

Decision No. 88635 MAR 21 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of: Leonard Tank Lines, Inc., a)
California corporation, to trans-)
fer, and Talley Transportation,)
a California corporation, to)
acquire, a cement carrier certif-)
icate authorizing service to and)
within the Counties of Fresno,)
Mariposa, San Luis Obispo, Stanis-)
laus, Merced, and Tuolumne.)

Application No. 57722
(Filed December 2, 1977)

O P I N I O N

By this application, Leonard Tank Lines, Inc. (seller), a California corporation, seeks authority to sell and transfer and Talley Transportation (purchaser), a California corporation, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier to and within the counties of Fresno, Mariposa, San Luis Obispo, Stanislaus, Merced and Tuolumne. The certificate was granted to seller by Resolution 13919, Sub 1, dated August 11, 1964, in Application 46374.

Talley Transportation presently holds a certificate as a cement carrier which was granted to it by Decision 88445 dated January 31, 1978 in Application 57599 and authorizes the transportation of cement from all points in California to all points in the County of Madera. Talley Transportation also holds highway carrier permits issued by this Commission under File T-88,829. Its unaudited balance sheet as of June 30, 1977 shows net worth of \$83,612. It will operate three units of equipment to perform service under the certificate to be transferred. The purchase price for the certificate is \$1,200 payable upon the Commission's approval of this application.

Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariff publications to cover the cement carrier operations proposed to be transferred. Purchaser proposes to adopt such

tariffs. Seller has submitted a copy of a shipping document evidencing operation during the past year under the certificate to be transferred.

The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application.

A copy of the application has been mailed to the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of December 5, 1977. No protest to the application has been received.

After consideration, the Commission finds that the proposed sale and transfer would not be adverse to the public interest and concludes that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of value of the certificate to be sold and transferred. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Leonard Tank Lines, Inc. and Talley Transportation and the issuance of a cement carrier certificate, in appendix form, to Talley Transportation, a California corporation.

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

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1978, Leonard Tank Lines, Inc., a California corporation, may sell and transfer the operating rights referred to in the application to Talley Transportation, a California corporation. This authorization shall expire if not exercised by

December 31, 1978, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer, purchaser shall file with the Commission a 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, such 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 date of 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.

4. 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 April 30 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.

5. 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 Talley Transportation 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 of this decision.

6. The certificates granted to Leonard Tank Lines, Inc. by Resolution 13919, Sub 1, and to Talley Transportation by Decision 88445, respectively, are revoked effective concurrently with the effective date of the tariff filings required by Paragraph 3.

7. 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.

8. 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 April 30, 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.

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

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

The effective date of this order is thirty days after the date hereof.

Dated at San Francisco, California, this 21st day of MARCH, 1978.

Robert Bateman
President
William Guerin Jr.
Veronica L. Sturgeon
Richard D. Hoyle
Clair T. Schick
Commissioners

Talley Transportation, by the certificate of public convenience and necessity granted in 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 to and within the Counties of Fresno, Madera, Mariposa, Merced, San Luis Obispo, Stanislaus and Tuolumne from any and all points of origin.

Restriction:

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 88635, Application 57722.