

ORIGINAL

Decision No. 88733 APR 18 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of WALDON CARNALL, INC., a)
California corporation, and)
UNITED TERRAZZO SUPPLY CO., INC.,)
a California corporation, to)
exchange authorities issued by)
California Public Utilities)
Commission, authorizing the)
transportation of cement between)
various points in Los Angeles,)
Orange, Riverside, San Bernardino)
and San Diego Counties.)

Application No. 57791
(Filed January 6, 1978)

O P I N I O N

By this application, United Terrazzo Supply Co., Inc., a California corporation (United), seeks authority to sell and transfer and Waldon Carnall, Inc., a California corporation, (Carnall) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier from all points and places in the State of California to all points and places in the Counties of Los Angeles, San Bernardino and San Diego. The application further requests the transfer of a cement contract carrier permit from Carnall to United. The permit authorizes the transportation of cement as a contract carrier from any and all points in the State of California to all points in the Counties of Los Angeles, Orange, Riverside, San Bernardino and San Diego. By letter from the applicant's attorney received March 16, 1978, request has been made to transfer the cement contract carrier permit from Carnall to United by separate application. Carnall holds additional highway carrier permitted authority issued by this Commission under File T-89,997.

The application in effect requests an exchange of operating authorities between the parties. By reason of the two counties contained in the cement contract permit which are not contained

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in the cement certificate, additional consideration in the sum of \$3,000 will be paid by United to Carnall upon consummation of that transaction.

The cement carrier certificate held by United was granted by Decision 83492 dated September 24, 1974 in Application 55066.

The unaudited balance sheet of Carnall of July 31, 1977 shows a net worth of \$178,539.15. It will operate nine pieces of equipment to perform the service under the certificate to be transferred.

United participates in Western Motor Tariff Bureau, Inc., Agent's tariff publications to cover the operations under the cement carrier certificate proposed to be transferred. Carnall proposes to adopt such tariffs. United 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 also to the principal cement manufacturers in this State and notice of the filing of the application was made in the Commission's Daily Calendar of January 12, 1978. No protest to the application has been received.

After consideration, the Commission finds that the proposed sale and transfer of the cement carrier certificate held by United would not be adverse to the California public interest and concludes that the application should be granted insofar as it pertains to such certificated authority. 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 cement carrier certificate

presently held by United Terrazzo Supply Co., Inc., a California corporation, and the issuance of an "in lieu" certificate in appendix form to Waldon Carnall, Inc., a California corporation.

That portion of the application pertaining to the transfer of a cement contract carrier authority from Carnall to United should be dismissed without prejudice.

Carnall 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 authority 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. United Terrazzo Supply Co., Inc., may sell and transfer the certificated operative rights referred to in the application to Waldon Carnall, Inc. This authorization shall expire if not exercised by September 1, 1978, or within such additional time as may be authorized by the Commission. This authorization may not be exercised before Waldon Carnall, Inc., divests itself of its cement contract carrier permit.
2. Within thirty days after the transfer, United 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. Carnall 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 Waldon Carnall, 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 of this decision.

5. The certificate granted to United Terrazzo Supply Co., Inc., by Decision 83492, is revoked effective concurrently with the tariff filings required by paragraph 3.

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

7. Carnall 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.

8. Carnall 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.

9. 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.

10. That portion of the application pertaining to the transfer of a cement contract carrier permit from Carnall to United is dismissed without prejudice.

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

Dated at _____, California, this 18th day of APRIL, 1978.

Robert Bateman

President

William Lyons, Jr.

Carroll L. Sturgeon

Alvin T. Dedrick
Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

Waldon Carnall, Inc. 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 Los Angeles, San Bernardino and San Diego, 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 88733, Application 57791.