

ORIGINAL

Decision No. 68106

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of L. R. BROWN EQUIPMENT)
 CO., INC., to sell operating rights)
 and equipment, and of BROWN)
 TRANSPORTATION COMPANY, a)
 corporation, to purchase said)
 operating rights and equipment,)
 to issue promissory note or)
 other evidence of indebtedness)
 payable at periods of more than)
 one (1) year, and to issue capital)
 stock)

Application No. 47017
Filed September 30, 1964

O P I N I O N

This is an application for an order of the Commission

(1) authorizing L. R. Brown Equipment Co., Inc. to sell and transfer to Brown Transportation Company a certificate to operate as a cement carrier, together with good will and certain motor vehicle equipment;

(2) authorizing Brown Transportation Company, in acquiring said assets, to assume a conditional sale contract obligation, to execute a mortgage of chattels and to issue a \$59,000 note; and (3) authorizing Brown Transportation Company to issue and sell \$10,000 par value of its common capital stock for working capital.

L. R. Brown Equipment Co., Inc. is a California corporation engaged in the transportation of property by motor vehicle as a cement carrier. By Resolution No. 13980, dated September 15, 1964, the Commission granted the company a certificate to operate as a cement carrier to and within the Counties of Fresno, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Diego and Ventura.

Brown Transportation Company is a California corporation organized on or about August 3, 1964. Subject to receiving this Commission's authorization, it has agreed to acquire the cement carrier certificate of L. R. Brown Equipment Co., Inc., together with good will, two tractors and three trailers, for a purchase price of \$59,000 and the assumption of an indebtedness represented by a conditional sale contract dated August 3, 1964, which indebtedness originally amounted to \$9,319.26 and was incurred in connection with the purchase of two of the three trailers.

The purchase price will be represented by a \$59,000 note in favor of Regenia O. Brown, repayable as to principal in monthly installments of \$300 commencing after three years, and interest will be payable monthly at the rate of 6% per annum. The indebtedness will be secured by a mortgage of chattels. The application shows that said Regenia O. Brown is the transferor's president and shareholder, and that her son, Roger T. Stogsdill, is presently employed as transferor's transportation operations manager and that he is the transferee's president and proposed shareholder.

A pro forma balance sheet of Brown Transportation Company as of September 10, 1964, giving effect to the proposed transactions as obtained from Exhibit C attached to the application, is as follows:

Assets

Cash		\$10,000.00
Tangible property (motor vehicle equipment)		50,000.00
Intangible property -		
Carrier certificate	\$ 2,000.00	
Good will	<u>17,000.00</u>	<u>19,000.00</u>
Total		<u>\$79,000.00</u>

Liabilities

Account payable (Fruehauf Trailer Co.)		\$ 9,319.26
Note payable (Regenia O. Brown)		59,000.00
Capital stock		10,000.00
Capital surplus		<u>680.74</u>
Total		<u>\$79,000.00</u>

The Commission has considered this matter and finds that:

(1) the proposed sale and transfer would not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock and note herein authorized is reasonably required for the purposes specified herein; and (3) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of the value of the certificate and other assets herein authorized to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of only the cement carrier certificate now held by L. R. Brown Equipment Co., Inc. The transfer of permitted operative rights must be the subject of a separate application or applications.

O R D E R

IT IS ORDERED that:

1. On or before January 31, 1965, L. R. Brown Equipment Co., Inc. may sell and transfer, and Brown Transportation Company may purchase and acquire, the cement carrier certificate and other assets referred to in the application.

2. Brown Transportation Company, on or before January 31, 1965, in acquiring said certificate and other assets, may execute a Transfer of Equity and Assumption Agreement relating to an indebtedness of not to exceed \$9,319.26, and may execute a mortgage of chattels and issue a note in the principal amount of not to exceed \$59,000, which instruments shall be in the same form, or in substantially the same form, as those attached to the application.

3. Brown Transportation Company, on or before January 31, 1965, may issue and sell not to exceed \$10,000 par value of its common capital stock, at not less than par, for the purpose of obtaining working capital.

4. Brown Transportation Company shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. Within thirty days after the consummation of the transfer herein authorized, Brown Transportation Company shall notify the Commission, in writing, of that fact and within said

period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect such transfer.

6. Brown Transportation Company shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the cement carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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.

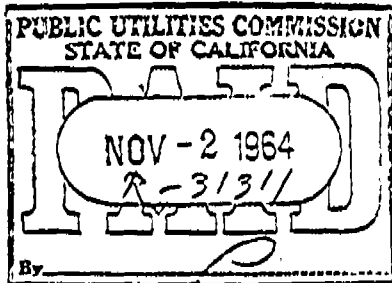
7. Concurrently with the effective date of tariff filings for cement carrier operations required by Ordering Paragraph 6 hereof, cement carrier authority issued in Resolution No. 13980, Sub. 1 is cancelled and a certificate of public convenience and necessity is granted to Brown Transportation Company, authorizing it to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code, as set forth in Appendix A attached hereto.

8. On or before the end of the third month after the consummation of the transfer as herein authorized, Brown Transportation Company shall cause to be filed with the Commission,

in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

9. This order shall become effective when Brown Transportation Company has paid the fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$59.

Dated at San Francisco, California, this 27th day of October, 1964.



Frederick B. Holdhoff
President

[Signature]

[Signature]

George H. Thayer

William Lee Bennett
Commissioners

Brown Transportation Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier from any and all points of origin to and within the Counties of Fresno, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino Santa Barbara, San Diego and Ventura, subject to the following restriction:

Whenever carrier engages other carriers for the transportation of property of the Brown Transportation Company or customers or suppliers of said corporation, carrier shall not pay such carriers less than 100% of the applicable minimum rates and charges established by the Commission for the transportation actually performed by such other carriers.

Issued by California Public Utilities Commission.

Decision No. 68106, Application No. 47017.