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**ORIGINAL**

Decision No. 68956

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of CLINTON G. REEDER to sell and  
transfer to McKAY TRUCKING CO.,  
a California corporation, and  
for McKAY TRUCKING CO. to purchase  
and acquire a cement carrier  
certificate.

Application No. 47372  
(Filed March 1, 1965)

O P I N I O N

Applicant seller (Reeder) requests authorization to sell pursuant to Public Utilities Code Sections 851 and 1061, et seq., to applicant buyer (McKay) a certificate of public convenience and necessity to operate as a cement carrier to and within the County of Santa Clara from any and all points of origin. The purchase price to be paid by McKay is \$200. Said sum is to be paid after authorization of the proposed transfer by this Commission.

McKay presently operates pursuant to a certificate of public convenience and necessity as a cement carrier to and within the Counties of Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Merced, Monterey, Orange, Sacramento, San Benito, San Luis Obispo, Santa Barbara, Solano, Stanislaus, Ventura and Yolo from any and all points of origin. A balance sheet of McKay dated March 31, 1964 indicates a net worth of \$64,427.21. An equipment list of McKay dated October 20, 1964 indicates that McKay owns and operates 15 trucks and tractors and 16 trailers.

Reeder alleges that he desires to terminate business as a cement carrier. McKay alleges that it has the equipment and employees necessary to perform the service to the public in Santa Clara County and that authorization of the transfer will benefit the public.

There have been no protests to the granting of this application.

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

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

McKay is hereby 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 to and within specified counties. 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. On or before May 31, 1965, Clinton G. Reeder may sell and transfer, and McKay Trucking Co., a corporation, may purchase

and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, McKay Trucking Co. 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 said transfer.

3. McKay Trucking Co. shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order or not less than thirty 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, McKay Trucking Co. 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.

5. Upon completion of the transfer herein authorized, a certificate of public convenience and necessity is granted to McKay Trucking Co., a corporation, authorizing it to operate as a cement

carrier, as defined in Section 2141 of the Public Utilities Code, between the points more particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order supersedes the certificates of public convenience and necessity granted by ex parte Resolution No. 13825, Sub. No. 11 and Resolution No. 13821, Sub. No. 37, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of APRIL, 1965.

Frederick B. Hallock  
President  
John E. [unclear]  
George A. Grover  
Augusta [unclear]  
William B. Bennett  
Commissioners

McKay Trucking Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier to and within the Counties of Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Merced, Monterey, Orange, Sacramento, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Stanislaus, Ventura and Yolo from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

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