

ORIGINALDecision No. 71125

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 HOLLIDAY ROCK CO., a corporation,
 to sell and HOLLIDAY TRUCKING, INC.,
 a corporation, to purchase, a
 certificate of public convenience
 and necessity to operate as a highway
 common carrier in the transportation
 of cement within the State of California.)

Application No. 48315
 (Filed March 16, 1966)

O P I N I O N

Holliday Rock Co., a corporation, holds a certificate of public convenience and necessity granted by Resolution No. 13823, Sub. No. 4, dated June 23, 1964, in Application No. 46412, authorizing operation as a cement carrier as defined in Section 214.1 of the Public Utilities Code. By this application Holliday Rock Co. (Rock) seeks authority to sell, and its affiliate Holliday Trucking, Inc. (Trucking) seeks authority to purchase and acquire said operative right for the total cash sum of \$150.

Trucking holds a radial highway common carrier permit and is presently engaged in the transportation of property. As stated, it is an affiliate of Rock. The latter is a division or subsidiary of Ace Rock Products Company. No objection to the granting of the authority has been received.

By letter dated March 29, 1966 counsel for applicant was informed by the Commission of its policy in the issuing of operative authority to subsidiaries of shippers of restricting that authority to prohibit the employment of subhaulers at less than the minimum rates or tariff rates, as the case may be, for the transportation

of property of the parent company or of other affiliates. By letter dated May 24, 1966, counsel informed the Commission that applicants do not oppose the imposition of such restriction. These two letters are hereby made part of the record as Exhibit 1.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide that, in the event the transfer is consummated, the certificate presently held by Holliday Rock Co. shall be revoked and that a certificate in appendix form shall be issued to Holliday Trucking, Inc.

Holliday Trucking, Inc. 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 over a particular route. 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.

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

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1967, Holliday Rock Co. may sell and transfer, and Holliday Trucking, Inc. may purchase and acquire, the operative right referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Holliday Trucking, Inc. 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. Holliday Trucking, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on 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, Holliday Trucking, Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Holliday Trucking, Inc., a corporation,

authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points and over the routes 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 shall supersede the certificate of public convenience and necessity granted by Resolution No. 13823, Sub. No. 4, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100 series. Failure to comply with and observe said rules or the provisions of General Order No. 100 series may result in a cancellation of the operating authority granted by this decision.
- (b) On or before April 1, 1967, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) Applicant Holliday Trucking, Inc. 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 March 31 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.

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

Dated at San Francisco, California, this 16th day of AUGUST, 1966.

[Signature]
President

George E. Trover

[Signature]

[Signature]
Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

Holliday Trucking, Inc., a corporation, 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, from any and all points of origin to points within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura, subject to the following restriction:

Whenever Holliday Trucking, Inc., engages other carriers for the transportation of property of Holliday Rock Co. or Ace Rock Products Company or customers or suppliers of said companies or corporations, Holliday Trucking, Inc., shall not pay such other carriers rates and charges less than rates and charges published in Holliday Trucking, Inc.'s tariffs on file with this Commission.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 71125, Application No. 48315.