

**ORIGINAL**Decision No. 72414

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 A. W. HAYS TRUCKING, INC., a corporation, )  
 and FRED M. DARWIN, FRED M. DARWIN, JR., ) Application No. 49179  
 and CHARLES D. DARWIN, copartners doing ) (Filed March 1, 1967)  
 business as DARWIN TRANSPORTATION )  
 COMPANY, to transfer rights to A. W. )  
 HAYS TRUCKING, INC. )

O P I N I O N

Fred M. Darwin, Fred M. Darwin, Jr. and Charles D. Darwin, copartners doing business as Darwin Transportation Company, request authority to transfer their authority as a cement carrier to A. W. Hays Trucking, Inc. Said authority was issued by Commission Resolution No. 13825, Sub. No. 20 on June 23, 1964, and authorizes the transportation of cement to and within the County of San Diego. The agreed cash consideration is \$250. No protests have been filed.

A. W. Hays Trucking, Inc. is presently authorized to operate as a cement carrier to and within forty-six counties within the State of California. As of December 31, 1966 A. W. Hays indicated a net worth of \$841,069.96.

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, in the event the transfer is consummated, for the revocation of the certificates presently held by Fred M. Darwin, Fred M. Darwin, Jr. and Charles D. Darwin copartners doing business as Darwin Transportation Company, and A. W. Hays Trucking, Inc. and the issuance of a certificate in appendix form to A. W. Hays Trucking, Inc.

A. W. Hays 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 right herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1967 Fred M. Darwin, Fred M. Darwin, Jr. and Charles D. Darwin, a co-partnership doing business as Darwin Transportation Company, may sell and transfer, and A. W. Hays 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, A. W. Hays 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. A. W. Hays 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 that 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, A. W. Hays 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 A. W. Hays 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 more specifically 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 certificates of public convenience and necessity granted by Commission Resolution No. 13825 Sub. No. 20 and Decision No. 69198 as modified by Decision No. 70581 in Application No. 47448 which certificates are 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, A. W. Hays Trucking, Inc. shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, A. W. Hays Trucking, Inc. shall file a written acceptance of the certificate herein granted. A. W. Hays Trucking, Inc. 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-D. Failure to comply with and observe the provisions of General Order No. 100-D may result in a cancellation of the operating authority granted by this decision.
- (b) A. W. Hays 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 16<sup>th</sup> day of MAY, 1967.

[Signature]  
President

[Signature]  
Attorney

[Signature]  
Commissioners

A. W. Hays Trucking, 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 between the following points:

From any and all points of origin to and within the Counties of Alameda, Butte, Colusa, Contra Costa, Del Norte, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Los Angeles, Madera, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo and Yuba.

End of Appendix A

Issued by California Public Utilities Commission.

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