

**ORIGINAL**

Decision No. 72800

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 IGNAZIO INTRAVAIA, an individual,  
 doing business as INTRAVAIA TRUCKING  
 AND INTRAVAIA ROCK & SAND, to  
 transfer and of G & T CEMENT TRANS-  
 PORTATION, INC., a corporation, to  
 acquire a Certificate of Public  
 Convenience and Necessity and certain  
 property; and Request for Tariff  
 Publication Authority.

Application No. 49369  
 Filed May 11, 1967

O P I N I O N

In this application, G & T Cement Transportation, Inc., (G & T) (buyer) of Glendora, California, requests authority to purchase, and Ignazio Intravaia, an individual, doing business as Intravaia Trucking and Intravaia Rock & Sand (Intravaia), (seller) requests authority to sell his cement carrier certificate authorizing the transportation of cement between points in Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties. A certified copy of the Articles of Incorporation of the buyer dated March 28, 1967 is filed with this application, and it is alleged that an oral agreement of sale was entered into between the parties to transfer the certificate of public convenience and necessity issued to seller by Resolution No.13823, Sub.No.40, dated June 23, 1964, as amended by Decision No. 68572, dated February 9, 1965, and certain vehicular equipment consisting of one 1963 Peterbilt truck, two 1963 Utility trailers, and two 1962 Trailmobiles. The total purchase price

of the described tangible and intangible property is the sum of \$39,900, to be paid by assumption of existing encumbrances against the respective vehicular equipment in the approximate sum of \$20,500. The holder of the security instrument has consented to the sale and will accept buyer as principal obligor, without further evidences of indebtedness issued in connection therewith.

Applicants alleged that the purchase price of \$38,900 for the equipment sought to be transferred is the fair market value thereof, and was appraised by a qualified independent appraiser at said value.

Applicants alleged that the agreed purchase price of \$1,000 for the certificated authority as amended, represents less than the original cost of acquiring it.

The buyer's balance sheet attached to the application as Exhibit D describes its financial condition as of April 30, 1967, and lists assets of \$30,000, liabilities of \$20,000, and 100 shares of common stock in the amount of \$10,000.

The officers and directors of buyer are Malcolm K. Gatherer (President and Director), William C. Thomas (Vice-President and Director), and Jacqueline H. Gatherer (Secretary-Treasurer and Director). It is alleged that they have been successfully connected with transportation activities generally for the past 15 years.

The buyer requests authority to issue the tariff hereinafter authorized and to establish rates and charges as set

forth in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21), as provided by Section 454 of the Public Utilities Code of the State of California.

A copy of the application has been mailed to the California Trucking Association, Inc., 3301 South Grand Avenue, Los Angeles, California.

No protests have been received.

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 assumption by the buyer of the existing encumbrance against the respective vehicular equipment which has been consented to by the holder of the security instrument is reasonable and will be approved.

3. Increases resulting from the proposed establishment of rates and charges for the involved common carrier operations are justified.

A public hearing is not necessary.

On the basis of the foregoing findings we conclude that the application should be granted. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Intravaia and the issuance of a certificate in appendix form to G & T.

G & T Cement Transportation, 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 as cement carrier. 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.

In issuing our order herein, we place G & T Cement Transportation, Inc., and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return said corporation should be allowed to earn on its investment in facilities and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before October 1, 1967, Ignazio Intravaia, an individual, doing business as Intravaia Trucking and Intravaia Rock & Sand, may sell and transfer, and G & T Cement Transportation, Inc., a corporation, may purchase and acquire, the operative rights and property referred to in the application.
2. G & T 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.
3. G & T, on and after the effective date hereof and on or before October 1, 1967, for the purposes specified in this proceeding may assume payment of the outstanding obligations of Intravaia as requested in the application herein.

4. Within thirty days after the consummation of the transfer herein authorized, G & T 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.

5. G & T shall file tariffs with the Commission, naming rates and rules governing the common carrier operations involved to reflect the authority herein granted. 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.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, G & T 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.

7. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and

necessity is granted to G & T Cement Transportation, Inc., a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, and as provided in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in paragraph 7 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13823, Sub. No. 40, dated June 23, 1964, in File No. T-43,134, as amended by Decision No. 68572, dated February 9, 1965, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

9. Whenever G & T Cement Transportation, Inc., engages other carriers for the transportation of property of T B Equipment, Inc., or B & B Red-I-Mix Concrete, Inc., or customers or suppliers of said corporations, carrier shall not pay such other carriers rates and charges less than the rates and charges published in said carrier's tariffs on file with the Commission.

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

- (a) Within thirty days after the consummation of the transfer herein authorized, G & T Cement Transportation, Inc., shall file a written acceptance of the certificate herein granted. G & T Cement Transportation, 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 series. Failure to comply with and observe the provisions of General Order No. 100 series may result in a cancellation of the operating authority granted by this decision.

- (b) G & T Cement Transportation, 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 25<sup>th</sup> day of JULY, 1967.

[Signature]  
President

[Signature]  
[Signature]  
[Signature]  
 Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

NB \*

Appendix A      G & T Cement Transportation, Inc.      Original Page 1  
(a corporation)

G & T Cement Transportation, 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 all points and places within the Counties of Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

Whenever G & T Cement Transportation, Inc., engages other carriers for the transportation of property of T B Equipment, Inc., or B & B Red-I-Mix Concrete, Inc., or customers or suppliers of said corporations, carrier shall not pay such other carriers rates and charges less than the rates and charges published in said carrier's tariffs on file with the Commission.

Issued by California Public Utilities Commission.  
Decision No. 72800, Application No. 49369.