

ORIGINAL

Decision No. 73393

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of EMMITT H. HANNAH, doing)
business as EMMITT & DARRELL)
HANNAH TRUCKING SERVICE for)
authority to transfer assets and)
to lease real property and)
terminal facilities; and)
))
HANNAH TRUCKING SERVICE, INC., a)
California Corporation, for)
authority to acquire assets,)
assume liabilities, and to lease)
real property and terminal)
facilities, and to issue 1,000)
shares of its capital stock.)

Application No. 49771
Filed November 3, 1967

O P I N I O N

This is an application for an order of the Commission

(1) authorizing Emmitt H. Hannah, doing business as Emmitt & Darrell Hannah Trucking Service, to sell and transfer a cement carrier certificate of public convenience and necessity and certain related assets to Hannah Trucking Service, Inc., and

(2) authorizing the latter, in acquiring said assets subject to liabilities, to issue 1,000 shares of its capital stock without par value.

By Resolution No. 13821, Sub. No. 2, dated June 23, 1964, in Application No. 46418, the Commission granted Emmitt H. Hannah a certificate of public convenience and necessity to operate as a cement carrier to and within the Counties of Fresno, Kern and Tulare. Other trucking activities are conducted under permits issued by this Commission.

In the present proceeding Emmitt H. Hannah requests authority to sell and transfer said cement carrier certificate of public convenience and necessity and related assets, other than real property and one Toledo scale, to Hannah Trucking Service, Inc., a California corporation organized on or about March 10, 1967. The corporation proposes to acquire said assets, subject to liabilities, in exchange for 1,000 shares of its no par value capital stock, the aggregate stated value of which is \$175,000.

A pro forma balance sheet of Hannah Trucking Service, Inc., dated as of April 1, 1967, giving effect to the proposed transactions, is attached to the application as Exhibit E and is summarized as follows:

<u>Assets</u>	
Current assets	\$ 47,260
Net tangible property	206,721
Deferred charges	<u>500</u>
Total	<u>\$254,481</u>
<u>Liabilities</u>	
Current liabilities	\$ 24,497
Long-term debt	54,984
Capital stock	<u>175,000</u>
Total	<u>\$254,481</u>

The application indicates that the properties to be retained by the seller will be leased to the corporation and will be utilized as terminal facilities by the lessee.

The Commission has considered this matter and finds that: (1) the proposed transactions will 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 herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is 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 as a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of the cement carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Emmitt H. Hannah, doing business as Emmitt & Darrell Hannah Trucking Service, and the issuance of a certificate in appendix form to Hannah Trucking Service, Inc.

Hannah Trucking Service, 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 a 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.

O R D E R

IT IS ORDERED that:

1. On or after the date hereof and on or before March 31, 1968, Emmitt H. Hannah may sell and transfer, and Hannah Trucking Service, Inc. may purchase and acquire, the cement carrier certificate of public convenience and necessity and other assets referred to in this proceeding. Said sale and transfer may be made effective as of April 1, 1967, for accounting purposes.

2. Concurrent with consummating the transfer authorized by Ordering Paragraph No. 1 hereof, applicants may enter into a Lease of Real and Personal Property in the same form, or in substantially the same form, as Exhibit G attached to the application, which may be made effective as of April 1, 1967, for accounting purposes.

3. Hannah Trucking Service, Inc., on or after the date hereof and on or before March 31, 1968, may assume the liabilities and obligations referred to in the application and, for the purpose specified in this proceeding, may issue not exceeding 1,000 shares of its capital stock, without par value, at a stated value of \$175 per share.

4. Hannah Trucking Service, Inc. 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, Hannah Trucking Service, 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.

6. Hannah Trucking Service, Inc. 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 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. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authority granted by this decision.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Hannah Trucking Service, 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 for accounting purposes of the transfer.

8. In the event the transfer authorized in Ordering Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Hannah Trucking Service, Inc., 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.

9. The certificate of public convenience and necessity granted in Ordering Paragraph No. 3 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13821, Sub. No. 2, dated June 23, 1964, in Application No. 46418, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by Ordering Paragraph No. 6 hereof.

10. In providing service pursuant to the certificate herein granted, Hannah Trucking Service, Inc. shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the date hereof, Hannah Trucking Service, Inc. shall file a written acceptance of the certificate herein granted. Hannah Trucking Service, 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 the insurance requirements of the Commission's General Order No. 100-D.
- (b) Hannah Trucking Service, 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.

11. The effective date of this order is the date hereof.

Dated at San Francisco, California,
this 25 day of NOVEMBER, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

Hannah Trucking Service, 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 from any and all points of origin to all points and places within the Counties of Fresno, Kern and Tulare.

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 73393, Application No. 49771.