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ORIGINAL

Decision No. 74051

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

C. C. WHITE, INC., doing business as WHITE'S TRANSPORTATION, a California corporation, for authority to transfer operating rights, and

M & M TRANSPORT, INC., a California corporation, for authority to acquire operating rights.

Application No. 50057
(Filed February 28, 1968)

O P I N I O N

By this application C. C. White, Inc., doing business as White's Transportation, a California corporation, hereinafter referred to as White, seeks authority to transfer, and M & M Transfer, Inc., a California corporation, hereinafter referred to as M & M, seeks authority to acquire certain cement carrier rights. There are no protests.

By Decision No. 70532, dated April 5, 1966, in Application No. 48199, White was granted a certificate of public convenience and necessity authorizing operations as a cement carrier to and within the Counties of Kern, Los Angeles, Mono, San Bernardino, San Luis Obispo, San Joaquin, Santa Barbara and Ventura from any and all points of origin.

The application states that because of financial circumstances, White ceased operations and was adjudged bankrupt on the filing of its voluntary petition in bankruptcy in the United States District Bankruptcy Court, Bankruptcy Proceedings No. BK-S1405, on January 19, 1968.

M & M submitted an offer of \$2,000 to the trustee in bankruptcy for the cement carrier rights and said offer was accepted subject to the approval of the Public Utilities Commission.

M & M operates as a for-hire carrier within California pursuant to a Radial Highway Common Carrier Permit authorizing the transportation of certain commodities in dump truck equipment. The application alleges that corporate officers of M & M for the past ten years have been employed by carriers engaged in the transportation of cement, both bulk and sack, servicing the various cement producers and by reason of said employment are fully informed as to the needs and requirements demanded by producers and consumers of cement. The application further alleges that M & M possesses the necessary experience, personnel and equipment, and also has the financial ability to acquire such additional equipment as may be required to furnish the common carrier services heretofore carried on by White. As of February 15, 1968, M & M had assets totaling \$77,817 and liabilities totaling \$54,708.

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

M & M 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 herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before August 1, 1968, C. C. White, Inc., doing business as White's Transportation, may sell and transfer, and M & M Transport, Inc. 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, M & M Transport, 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. M & M Transport, 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. 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, M & M Transport, 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 M & M Transport, Inc. authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points 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 Decision No. 70532, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the effective date hereof, M & M Transport, Inc. shall file a written acceptance of the certificate herein granted. M & M Transport, 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.

8. M & M Transport, 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 30th day of APRIL, 1968.

[Signature] President
[Signature]
[Signature]
[Signature] Commissioners

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

cc

APPENDIX A

M & M TRANSPORT, INC.

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M & M Transport, 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 to and within the Counties of Kern, Los Angeles, Mono, San Bernardino, San Luis Obispo, San Joaquin, Santa Barbara and Ventura from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 74051, Application No. 50057.