

ORIGINAL

Decision No. 74341

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of OLIVE TRANSPORTATION, INC., a
corporation, to transfer, and
SAMUEL V. STROUD, an individual,
to acquire a Certificate of Public
Convenience and Necessity and to
operate as a cement common carrier;
and Request for Tariff Publication
Authority.

Application No. 50161
(Filed April 11, 1968)

O P I N I O N

By this application, Olive Transportation, Inc., a corporation, (transferor) seeks authority to transfer, and Samuel V. Stroud, an individual, (transferee) seeks authority to acquire certain cement carrier rights. The agreed consideration is \$150.00.

Transferor possesses a certificate of public convenience and necessity authorizing operations as a cement carrier from any and all points of origin to any and all points of destination within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, and San Diego. The certificate was acquired by transferor pursuant to Decision No. 71967, dated February 7, 1967 in Application No. 48746. By Decision No. 72655, dated June 27, 1967, the certificate was restricted as follows:

"Whenever Olive Transportation Inc. engages other carriers for the transportation of property of the Midwest Building Materials Co., or subsidiaries of Midwest Building Materials Co., Olive Transportation Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Olive Transportation Inc.'s tariffs on file with this Commission."

By letter dated April 25, 1968, counsel for transferee advised that the transferee has no affiliation with Midwest Building

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Materials Co., and/or any subsidiaries of Midwest Building Materials Co. and requested that the restriction be removed if the transfer is authorized.

The application states that transferee is the former President of transferor, is adequately financed and possesses the necessary experience and equipment to carry on and conduct the common carrier activities heretofore carried on by transferor. Transferee has been successfully connected with transportation activities relative to the movement of cement in bulk or in sacks in intrastate commerce for many years last past, both as an individual and as President of transferor corporation.

It is alleged that there will be no adverse effect on any other carrier, nor upon the shipping public, resulting from the transfer of the instant certificate. Transferor intends to withdraw from certificated cement common carrier operations, and transferee seeks to continue to carry on such cement common carrier operations in the future.

It is further alleged that the transferee is now, and will continue to be, staffed by experienced and trained personnel having full knowledge of the technicalities of the physical transportation of the commodities described in the certificate to be transferred; and they have a full knowledge of the requirements of this Commission respecting for-hire transportation of cement in bulk or in sacks between points and places in the State of California.

A copy of transferee's balance sheet as of December 31, 1967 is attached to the application. It discloses total assets of \$214,600.00 and total liabilities of \$28,390.51.

The application was listed on the Commission's Daily Calendar of April 12, 1968. No objection to the granting of the application has been received.

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

Transferee 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 cancelled 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 October 1, 1968, Olive Transportation, Inc. may sell and transfer, and Samuel V. Stroud 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, Samuel V. Stroud 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. Samuel V. Stroud shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established,

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as his 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, Samuel V. Stroud 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 Samuel V. Stroud, an individual, authorizing him 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 Decision No. 71967, as amended by Decision No. 72655, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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7. In providing service pursuant to the certificate herein granted, Samuel V. Stroud 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 effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he 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) Applicant shall maintain his 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 his 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 2nd day of JULY, 1968.

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

Samuel V. Stroud, 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, Orange, Riverside, San Bernardino, and San Diego from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

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