

ORIGINALDecision No. 74669

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 GIAMMONA TRUCKING, INC., a corporation
 to sell and transfer a certificate of
 public convenience and necessity
 authorizing the transportation of cement
 to LEMORE TRANSPORTATION, INC., a
 corporation.

Application No. 50447
 (Filed July 31, 1968)

O P I N I O N

Giammona Trucking, Inc. requests authority to sell and transfer and Lemore Transportation, Inc. requests authority to purchase and acquire a certificate of public convenience and necessity authorizing the transportation of cement.

Said certificate is prescriptive in nature and was set forth in Commission Resolution No. 13821, Sub.No. 56, dated June 23, 1964, in Application No. 46427 and authorizes the transportation of cement from all points within the state to any and all points in the following counties: Alameda, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Marin, Mendocino, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Sonoma, Stanislaus, Tehama and Yolo. The agreed cash consideration is \$6,000.

Applicant buyer is presently providing service as a highway common carrier for the transportation of general commodities except earth, sand loam, gravel, stone, cement, asphalt, and cement and/or asphaltic mixes to and between various points within the state. As of March 31, 1968, applicant buyer indicated a net worth in the amount of \$79,035.

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

Lemore 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 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.

O R D E R

IT IS ORDERED that:

1. On or before February 1, 1969, Giammona Trucking, Inc. may sell and transfer, and Lemore Transportation, Inc. may purchase and acquire, the operative rights referred to in the application and restated in Appendix A attached hereto and by this reference made a part hereof.
2. Within thirty days after the consummation of the transfer herein authorized, Lemore Transportation, 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. Lemore Transportation, 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, Lemore Transportation, 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 Lemore Transportation, 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 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 set forth in Commission Resolution No. 13821, Sub. No. 56, dated June 23, 1964, in Application No. 46427 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

- (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 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) Applicant 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 the date hereof.

Dated at San Francisco, California, this 11th
day of SEPTEMBER, 1968.

William J. Lyons, Jr.
President

William W. Bennett

Augustine

David P. Morrissey
Commissioners

Lemore Transportation, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to engage in operations as a cement carrier for transportation, by motor vehicle loaded substantially to capacity, portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, from any and all points of origin to all points and places within the following counties:

Alameda, Colusa, Contra Costa, El Dorado, Fresno,
Glenn, Marin, Mendocino, Nevada, Placer, Plumas,
Sacramento, San Francisco, San Joaquin, San Luis
Obispo, San Mateo, Santa Clara, Sonoma, Stanislaus,
Tehama and Yolo.

END OF APPENDIX A

Issued by California Public Utilities Commission.

Decision No. 74669, Application No. 50447.