

ORIGINAL

Decision No. 74876

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Paul Kenneth Hamett, an individual,
 doing business as HAMETT TRUCKING CO.,
 for authority to transfer a cer-
 tificate of public convenience and
 necessity authorizing him to operate
 as a cement carrier to Newman Black,
 an individual, doing business as
 WESTERN CEMENT TRANSPORT and of
 Newman Black, an individual, doing
 business as WESTERN CEMENT TRANSPORT
 to operate under lease.

Application No. 50547
 (Filed September 16, 1968)

O P I N I O N

Paul Kenneth Hamett, doing business as Hamett Trucking Co., requests authority to sell and transfer and Newman Black requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier. Applicants also request authority to execute a lease agreement of said certificate pending final determination of the transfer.

The certificate was granted by Decision No. 69318 dated June 29, 1965, in Application No. 47582 and authorizes operations within the Counties of Contra Costa, Fresno, Kings, Madera, Mariposa and Tulare. The agreed cash consideration is \$3,500.

Applicant buyer is presently engaged in the transportation of property as a permitted carrier and as of August 31, 1968, indicated a net worth in the amount of \$73,802.

Notice of the application was published in the Commission's Daily Calendar on September 17, 1968. No protests have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. The Commission further finds that an order authorizing the transfer can be issued just as expeditiously as an interim order authorizing the proposed lease. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Paul Kenneth Hamett and the issuance of a certificate in appendix form to Newman Black.

Newman Black 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 May 1, 1969, Paul Kenneth Hamett may sell and transfer, and Newman Black may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Newman Black 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. Newman Black 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, as his own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than five 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, Newman Black shall cause to be filed with the Commission, in such form as the Commission shall 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 Newman Black, 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. 69318 dated June 29, 1965, in Application No. 47582, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. (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-E.

(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.

8. On or before the consummation of the transfer herein authorized, Newman Black shall file with this Commission a surety bond as prescribed by General Order No. 102 series, with the effective date of the bond being not later than the date of the consummation of the transfer.

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9. That portion of the application requesting authority to operate pursuant to the lease agreement herein referred to is hereby denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 29th
day of OCTOBER, 1968.

William Synovis, Jr.
President
John E. Hutchins
William B. Brown
Augusta
Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Newman Black by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a cement carrier from any and all points of origin to and within the counties of Contra Costa, Fresno, Kings, Madera, Mariposa and Tulare, subject to the following restrictions:

1. Whenever Newman Black engages other carriers for the transportation of property of Newman Black or Black's Concrete Pipe Co. or Western Cement Transport or customers or suppliers of said individuals or companies, Newman Black shall not pay such other carriers rates and charges less than the rates and charges published in Newman Black's tariffs on file with the Commission for the transportation actually performed by such other carriers.
2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

End of Appendix A

Issued by California Public Utilities Commission .

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