

Decision No. 75501**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HENRY P. CAPDEVILLE, an individual,)
 doing business as Hank's Trucking,)
 to transfer to TURF TRANSPORT, INC.,)
 a California corporation, a cement)
 carrier operating right of the)
 transportation of cement pursuant to)
 Sections 851-853 of the California)
 Public Utilities Code.)

Application No. 50849
 Filed January 29, 1969

O P I N I O N

Henry P. Capdeville requests authority to transfer and Turf Transport, Inc., requests authority to acquire a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was set forth by Resolution 13835, Sub 2, dated June 30, 1964, and authorizes operations to and within the Counties of Santa Barbara and Ventura from any and all points of origin.

Applicant transferor is president and majority stockholder of applicant transferee and it is intended that the corporation succeed to the business operations of applicant transferor. The transfer would be without consideration. As of December 1, 1968, applicant transferee indicated a net worth in the amount of \$13,348.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. 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 Henry P. Capdeville and the issuance of a certificate in appendix form to Turf Transport, Inc.

Turf Transport, 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.a. On or before December 1, 1969, Henry P. Capdeville may transfer, and Turf Transport, Inc., may acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Turf 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.a. Turf Transport, Inc., shall file tariffs in triplicate in the Commission's office, naming rates and rules governing the common carrier operations described in Appendix A, attached hereto.

b. The effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized and on not less than thirty days' notice to the Commission and the public.

c. 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 authorities granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Turf Transport, Inc., 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.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13835, Sub. No.2, dated June 30, 1964, in File T-67,205, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. In providing service pursuant to the certificate herein granted, Turf Transport, 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 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 insurance requirements of the Commission's General Order No. 100 series.

Turf Transport, Inc., by the certificate of public convenience and necessity located 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 Santa Barbara and Ventura, subject to the following restrictions:

1. Whenever Turf Transport, Inc. engages other carriers for the transportation of property of Turf Transport, Inc. or Cal-Turf, Inc. or customers or suppliers of said corporations, Turf Transport, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Turf Transport, Inc.'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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