

ORIGINAL

Decision No. 75930

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SENATOR TRUCK SERVICE, INC., a
Corporation, to Sell and Transfer a
certificate of public convenience
and necessity, authorizing the trans-
portion of cement, to TED A. LEWIS,
doing business as LEWIS TRUCKING CO.

Application No. 51098
(Filed May 23, 1969;
Amended June 12, 1969)

O P I N I O N

Senator Truck Service, Inc. requests authority to sell and transfer, and Ted A. Lewis requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 75327 dated February 18, 1969, in Application No. 50767, amended by Decision No. 75823 dated June 24, 1969, in Application No. 51011, and authorizes the transportation of cement from all points of origin within the state to all points and places within the Counties of Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Solano, Sonoma, Sutter, and Yolo.

The agreed consideration is \$15,000 with a down payment of \$3,000 and the balance to be paid in six equal monthly installments including interest at the rate of 9 percent on the unpaid balance.

By amendment filed June 12, 1969, applicants request Contra Costa County be excluded from the sale and transfer and in all other respects the application remains the same.

Applicant purchaser is presently operating as a cement carrier to points in Contra Costa County pursuant to Decision No. 74001 dated April 16, 1968, in Application No. 50013. As of December 31, 1968, applicant purchaser indicated a net worth in the amount of \$161,457.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. The application and amendment were listed on the Commission's Daily Calendar of May 26 and June 13, 1969, respectively. No protests have been received. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revision of the certificate presently held by Senator Truck Service, Inc. and the issuance of a certificate in appendix form to Ted A. Lewis.

Ted A. Lewis 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 and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1970, Senator Truck Service, Inc. may sell and transfer, and Ted A. Lewis may purchase and acquire, the operative rights and property referred to in the application as amended.

2. Within thirty days after the consummation of the transfer herein authorized, Ted A. Lewis 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. Senator Truck Service, Inc. and Ted A. Lewis shall amend or reissue their respective tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their 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 ten 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, Ted A. Lewis 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 Ted A. Lewis, 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, Original Page 1 of this decision, attached hereto and made a part hereof.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, the authority of Senator Truck Service, Inc. is revised accordingly and Appendix A of Decision No. 75327, dated February 18, 1969, in Application No. 50767, as amended by Decision No. 75823, dated June 24, 1969, in Application No. 51011, is hereby further amended by incorporating therein Second Revised Page 1, attached hereto and made a part hereof in revision of First Revised Page 1.

7. Within thirty days after the effective date hereof, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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 insurance requirements of the Commission's General Order No. 100-E.

8. Purchaser 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.

9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

10. Concurrent with the tariff filings required by paragraph 3 hereof, the operating authority granted by Decision No. 74001 is hereby revoked.

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

Dated at San Francisco, California, this 15th day of JULY, 1969.

_____ President

[Signature]

[Signature]

[Signature]

_____ Commissioners

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

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

Senator Truck Service, 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, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the County of Contra Costa. (See Restrictions)

RESTRICTIONS:

1. Whenever Senator Truck Service, Inc. engages other carriers for the transportation of property of Acme Concrete Company, Inc. and John W. Vickrey, Joint Venture, or Acme Concrete Company, Inc., or John W. Vickrey, or J. W. Vickrey, Inc., or Vickrey Transport, Inc., or Freeway Sawing, Inc., or customers or suppliers of said individual, joint venture partners, or corporations, Senator Truck Service, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in the carrier's tariffs on file with this Commission.
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.

Decision No. 75930, Application No. S1098.

Ted A. Lewis, 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 all points and places within the Counties of:

Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Solano, Sonoma, Sutter, and Yolo.

NOTE: 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.

Decision No. 75930, Application No. 51098.