

ORIGINAL

Decision No. 76300

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARTWICK AND HAND, INC.,)
 a California corporation, and of)
 BROWN TRANSPORTATION COMPANY, a)
 California corporation, for an order)
 of the Commission authorizing the)
 merger of BROWN TRANSPORTATION)
 COMPANY with and into HARTWICK AND)
 HAND, INC.; for transfer of BROWN'S)
 cement carrier certificate to)
 HARTWICK AND HAND, INC., and for)
 approval of long term indebtedness.)

Application No. 51365
 Filed September 16, 1969

O P I N I O N

This proceeding concerns the proposed merger of
 Brown Transportation Company with and into Hartwick and Hand, Inc.

Brown Transportation Company is a California corporation operating as a public utility cement carrier under the certificate of public convenience and necessity granted by Decision No. 68106, dated October 27, 1964, in Application No. 47017. In addition, it possesses permits to operate as a highway contract carrier and a petroleum contract carrier.

Hartwick and Hand, Inc. is a California corporation operating under the jurisdiction of this Commission as a highway contract carrier and a radial highway common carrier. The application shows that on or about April 15, 1969, it acquired all the issued and outstanding shares of capital stock of Brown Transportation Company.

Counsel for applicants, by letter dated September 30, 1969, cites Decision No. 74379, dated July 9, 1968, in Application No. 46451, as recognizing the merger of a public utility with and into a nonutility through filing of the certificate provided for in Section 4124 of the California Corporations Code, without prior authorization by this Commission under Section 851 of the Public Utilities Code. Applicants propose to follow the procedure recognized in said Decision No. 74379, and desire dismissal of the present application without prejudice.

After consideration the Commission finds that:

1. The proposed merger involves that of a public utility with and into a non-utility.
2. Applicants propose to consummate the merger in accordance with Section 4124 of the California Corporations Code.
3. The procedure employed with respect to Decision No. 74379, dated July 9, 1968, in Application No. 46451 is appropriate for the merger presently under consideration.

On the basis of the foregoing findings we conclude that the application should be dismissed without prejudice for lack of jurisdiction. A public hearing is not necessary.

O R D E R

IT IS ORDERED that Application No. 51365 is hereby dismissed without prejudice.

IT IS FURTHER ORDERED that within thirty days after consummation of the merger of Brown Transportation Company with and into Hartwick and Hand, Inc., the latter shall file with the Commission a certified copy of the certificate of ownership required by Section 4124 of the California Corporations Code.

The effective date of this order is the date hereof.

Dated at Los Angeles, California,
this 21st day of OCTOBER, 1969.

William J. Brown, Jr.
President
Augusta
J. D. Williams
T. C. Williams
Vernon L. Stinson
Commissioners