

ORIGINAL

Decision No. 76976

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
 LES CALKINS TRUCKING, INC., a corpo- )  
 ration, for a certificate of public )  
 convenience and necessity to extend )  
 cement carrier service. )

Application No. 51285  
 (Filed July 31, 1969;  
 Amended August 12, 1969)

Martin J. Rosen, for Les Calkins Trucking, Inc.,  
 applicant.  
Ray S. Bruton, for Miles & Sons Trucking Service,  
 and Frank R. Golzen, for Universal Transport  
 System, Inc., interested parties.  
H. L. Farmer, for the Commission staff.

O P I N I O N

This application originally sought an expansion of  
 applicant corporation's cement carrier certificate to include the  
 following counties:

"Alpine, Calaveras, Colusa, Contra Costa, Del  
 Norte, El Dorado, Glenn, Humboldt, Kings, Lake,  
 Lassen, Marin, Mariposa, Modoc, Mono, Monterey,  
 Nevada, San Benito, San Francisco, San Luis  
 Obispo, San Mateo, Santa Clara, Santa Cruz,  
 Sierra, Siskiyou, Solano, Sonoma, Stanislaus,  
 Sutter, Tehama, Trinity, Tulare, Tuolumne, and  
 Yuba."

Applicant presently holds a cement carrier certificate  
 granted by this Commission in Resolution No. 13821 as amended by  
 Decision No. 68088 in Application No. 46453 which authorizes  
 transportation from all points to the following counties:

Alameda, Amador, Butte, Fresno, Kern, Madera,  
 Mendocino, Merced, Napa, Placer, Plumas,  
 Sacramento, San Joaquin, Shasta, and Yolo.

Applicant also holds a permit as a radial highway common  
 carrier.

Public hearing was held in San Francisco before Examiner Gilman on January 12, 1970. At hearing, Counsel for applicant indicated that certain potential protestants had withdrawn their opposition on the condition that applicant seek additional operating authority only to the following counties:

Kings, Tulare, Stanislaus, Tuolumne, El Dorado, Santa Clara, San Mateo, Contra Costa, Solano, and San Francisco.

A motion was made to further amend the application to cover only operations to those counties; that motion is hereby granted.

Applicant's president testified that he had over 20 years of experience in the trucking field, beginning as a driver. He indicated that the applicant was not involved in the cement industry as either a producer, or consumer.

He submitted as an exhibit a list of the equipment which would be utilized by the carrier in both its existing and proposed operations. He testified that the company had acquired in excess of \$300,000 worth of new equipment in the past year and was in a position to acquire additional equipment if the demands of the expanded operations required it.

He also presented a financial exhibit and testified concerning applicant's safety policies and practices. He indicated that the 10 new counties were sought to fill in gaps in the applicant's operating authority and to permit it to render a more complete service to existing customers who often, on a single job, need services in several counties. He testified that the company had numerous requests for service in the new counties both from customers and from other carriers seeking additional equipment.

A representative of a potential protestant carrier testified supporting the application if limited to the counties stated in the application, as amended. A representative of a major cement producer gave evidence in support of the application, indicating that the producer needed the proposed service, and indicating its satisfaction with the level and quality of service presently rendered by applicant. It was stipulated that a representative of another producer would testify similarly.

The Commission finds that:

1. There will be adequate business to support applicant's proposed operations to the ten counties in question and such operations will not detract from applicant's ability to serve in the area presently certificated.
2. The applicant has the requisite experience and knowledge and sufficient equipment to adequately serve the public in the ten counties in question.
3. No carrier presently serving the ten counties has protested the application.
4. Applicant is neither a producer nor consumer of cement.

The Commission concludes that the public convenience and necessity require that the proposed operations should be authorized. The Commission further concludes that applicant's existing and new authority should be restated in a single source as set forth in Appendix A. The order which follows will provide for the revocation of the cement carrier certificate granted to the applicant by Sub No. 44, Resolution No. 13821, dated June 23, 1964, as amended by Decision No. 68088 dated October 20, 1964, Application No. 46453, and the issuance of a cement carrier certificate to the applicant in appendix form.

Les Calkins Trucking, 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, these rights extend to the holder a full or partial monopoly of a class of business.

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 certificate of public convenience and necessity is granted to Les Calkins Trucking, Inc. authorizing it to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code between the points particularly set forth in Appendix A hereto.

2. The certificate granted by Appendix A shall supersede the ✓ certificate granted by Resolution No. 13821 as amended in Decision No. 68088 in Application No. 46453 which certificate is revoked concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

3. In providing service pursuant to the certificate herein granted, applicant 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-E.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) 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 to the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117.
- (e) 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.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of MARCH, 1970.

*William J. Spivey, Jr.*  
President  
*[Signature]*  
*[Signature]*  
*[Signature]*  
Commissioners

-5- Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

LES CALKINS TRUCKING, INC.  
(a corporation)

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Les Calkins Trucking, Inc., 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 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 following counties, subject to the restriction shown below:

Alameda, Amador, Contra Costa, Butte, El Dorado, Fresno, Kern, Kings, Madera, Mendocino, Merced, Napa, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Solano, Stanislaus, Tulare, Tuolumne, Yolo.

This certificate 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. 76976, Application No. 51285.