

ORIGINAL

Decision No. 77428

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of HAWKEY TRANSPORTATION, INC.,
a corporation, to sell to C. H.
MILLER, an individual doing
business as C. H. MILLER TRANS-
PORTATION, certain operating
authorities evidenced by a
certificate of public convenience
and necessity.

Application No. 51895
(Filed May 12, 1970)

O P I N I O N

Hawkey Transportation, Inc. requests authority to sell and transfer, and C. H. Miller requests authority to purchase and acquire, portions of a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 48291 dated February 17, 1963, in Application No. 33392 and authorizes the transportation of the following commodities:

1. Property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipelines, refineries, and cracking or casing head plants.
2. Material and equipment used in the construction of roads, dams and bridges.
3. Material and equipment used in the construction of and destined for power and compressor plants.

Service is authorized on a statewide basis. According to the terms of the agreement the proposed transfer would include 28 specified counties with applicant seller retaining authority to serve the remaining counties. The agreed cash consideration is \$25,000, which is to be paid upon the approval of the Commission and the Interstate Commerce Commission for the transfer of corresponding interstate authority.

Applicant purchaser is presently engaged as a certificated carrier within the State and as of December 31, 1969, indicated a net worth in the amount of \$160,024.

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 Hawkey Transportation, Inc. and the issuance of certificates in appendix form to Hawkey Transportation, Inc. and C. H. Miller.

Applicants are 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 December 1, 1970, Hawkey Transportation, Inc. may sell and transfer, and C. H. Miller may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser 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 five 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. 30-A. Failure to comply with and observe the provisions of General Order No. 30-A may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, certificates of public convenience and necessity are hereby granted to Hawkey Transportation, Inc. and C. H. Miller authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A and B, respectively, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 48291, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

A. 51895 ds

6. Within thirty days after the transfer herein authorized is consummated, seller and purchaser shall file written acceptances of the certificates herein granted. Seller and purchaser are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they 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.

7. Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they 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 30th
day of JUNE, 1970.

William J. Lyons
President
August
W. J. Lyons
Francis J. Lyons
Vernon L. Shingler
Commissioners

Hawkey Transportation, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

- (A) Property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.
- (B) Material and equipment used in the construction of roads, dams and bridges.
- (C) Material and equipment used in the construction of and destined for power and compressor plants.

between all points and over all routes and highways located in the counties of Alameda, Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Yolo and Yuba, subject to the following restrictions:

- 1. Carrier shall not transport any shipment which shall carry a charge lower than applicable to a shipment of 10,000 pounds.
- 2. Carrier shall not transport any shipments of lumber and forest products except in connection with the transportation of property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.
- 3. Carrier shall not transport any shipments of iron and steel articles and tin plate, having their origin or destination at Pittsburg, California.

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Decision No. 77428, Application No. 51895.

4. Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil-well site, construction site or storage yard.

END OF APPENDIX A

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Decision No. 77428, Application No. 51395

C. H. Miller, an individual, doing business as C. H. Miller Transportation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

- (A) Property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.
- (B) Material and equipment used in the construction of roads, dams and bridges.
- (C) Material and equipment used in the construction of and destined for power and compressor plants.

between all points and over all routes and highways located in the counties of Alpine, Amador, Calaveras, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Mono, Monterey, Nevada, Orange, Placer, Riverside, San Benito, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Sierra, Tulare, Tuolumne and Ventura subject to the following restrictions:

1. Carrier shall not transport any shipment which shall carry a charge lower than applicable to a shipment of 10,000 pounds.
2. Carrier shall not transport any shipments of lumber and forest products except in connection with the transportation of property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.

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3. Carrier shall not transport any shipments of iron and steel articles and tin plate, having their origin or destination at Pittsburg, California.
4. Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil well site, construction site or storage yard.

END OF APPENDIX B

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