

Decision No. 77829

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ROY F. PETERS, an individual, to sell and transfer a certificate of public convenience and necessity as a cement carrier to PETERS TRUCKING SERVICE, INC., a California corporation.

Application No. 52050
(Filed July 21, 1970)

INTERIM OPINION

Roy F. Peters requests authority to sell and transfer, and Peters Trucking Service, Inc., requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a cement carrier. Peters Trucking Service, Inc., also requests authority to issue 8,083 shares of its one dollar per share capital stock.

The certificate was granted by Decision No. 77796, dated October 6, 1970, in Application No. 51909, and authorizes the transportation of cement from all points within the State to all points within the Counties of Colusa, Nevada, Placer, Sacramento, San Francisco, San Mateo, Santa Clara and Sutter.

Applicant purchaser is a newly formed corporation. As of June 30, 1970, it indicated a net worth in the amount of \$8,083. It requests authority to issue 8,083 shares of its one dollar capital stock to Roy F. Peters as consideration for the transfer of the certificate.

The Commission's records indicate that during the past year Roy F. Peters has conducted operations within all of the counties carried by the certificate with the exception of Sutter

County. The transfer will be authorized except for the County of Sutter and to that extent the application will be held in abeyance pending further consideration by the Commission.

After consideration the Commission finds that the transfer to the extent indicated would not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

Peters Trucking Service, 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. 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.

INTERIM ORDER

IT IS ORDERED that:

1. On or before May 1, 1971, Roy F. Peters may sell and transfer, and Peters Trucking Service, Inc., may purchase and acquire, the operative rights referred to in the application, with the exception of Sutter County.

2. The transfer of the cement carrier operating authority in Sutter County shall be held in abeyance pending further order of the Commission.

3. 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.

4. 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 it has adopted or established, as its 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. 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.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Peters Trucking Service, 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, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 77796, which certificate is revoked effective concurrently with the

effective date of the tariff filings required by paragraph 4 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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-F.

8. Purchaser 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.

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, it shall make the appropriate tariff filings as required by the General Order.

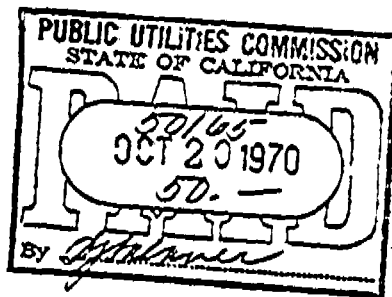
10. After the effective date hereof Peters Trucking Service, Inc., for the purpose specified herein, may issue not exceeding 8,083 shares of its capital stock.

11. Purchaser shall file with the Commission a report, or reports, as required by General Order No. 24-3, which order, insofar as applicable, is made a part of this order.

The authority herein granted to issue capital stock will become effective when purchaser has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of OCTOBER, 1970.

[Signature]
Chairman
[Signature]
William Symons Jr.
[Signature]
Vernon L. Stinger
Commissioners



Peters Trucking Service, 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 cement carrier as defined in Section 214.1 of the Public Utilities Code from any and all points of origin to any and all points within the counties of Colusa, Nevada, Placer, Sacramento, San Francisco, San Mateo and Santa Clara, subject to the following restriction:

"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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