

ORIGINAL

Decision No. 77852

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 McKAY TRUCKING COMPANY, a California)
 corporation, to sell and transfer a)
 certificate of public convenience)
 and necessity authorizing the trans-)
 portation of cement to APPELEGATE)
 DRAYAGE COMPANY, a California cor-)
 poration.)

Application No. 52123
(Filed August 11, 1970)

INTERIM OPINION

McKay Trucking Company requests authority to sell and transfer, and Applegate Drayage Company requests authority to purchase and acquire, a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate granted by Decision No. 77590 dated August 11, 1970 in Application No. 51989 authorizes the transportation of cement from points within California to any and all points within the following counties: Alameda, Contra Costa, Fresno, Kings, Los Angeles, Merced, Monterey, Orange, Sacramento, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Stanislaus, Ventura and Yolo. The transfer relates only to the counties of Los Angeles, Orange, Ventura and San Luis Obispo. The agreed cash consideration is \$3,000.

Applicant purchaser is presently engaged as a cement carrier and as of June 30, 1970, indicated a net worth in the amount of \$145,673.

After consideration the Commission finds that with the exception of San Luis Obispo County the proposed transfer would not be adverse to the public interest. Determination of a transfer of San Luis Obispo County rights will be held pending further order of

the Commission as it does not appear from the record that seller served such county within the last year. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificates presently held by McKay Trucking Company and Applegate Drayage Company and the issuance of restated certificates in appendix form.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

Applegate Drayage Company 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, McKay Trucking Company may sell and transfer, and Applegate Drayage Company may purchase and acquire, the operative rights referred to in the application, with the exception of San Luis Obispo County.
2. The transfer of the cement carrier operating authority in San Luis Obispo 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. Concurrent with the transfer herein authorized and on not less than five days' notice to the Commission and to the public applicants shall amend their tariffs presently on file with this Commission to reflect 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, certificates of public convenience and necessity are granted to McKay Trucking Company and Applegate Drayage Company authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points particularly set forth in Appendices A and B, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificates of public convenience and necessity granted by Decision No. 77590 dated August 11, 1970 in Application No. 51989, and Resolution No. 13821, Sub. 77, dated June 23, 1964, as amended by Decision No. 68869 dated April 13, 1965 in Application No. 46348, which certificates are 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, applicants shall file written acceptances of the certificates herein granted. Applicants 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-F.

8. 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.

9. 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 20th day of OCTOBER, 1970.

_____ Chairman

Angela

William J. ...

Thomas ...

Yuan L. Stinson

_____ Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Applegate Drayage Company, 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 in the following counties:

"Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Ventura, Yolo and Yuba."

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.

Decision No. 77852 Application No. 52123.

McKay Trucking Company, 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 No. 214.1 of the Public Utilities Code from any and all points of origin to any and all points within the Counties of Alameda, Contra Costa, Fresno, Kings, Merced, Monterey, Sacramento, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Stanislaus, and Yolo, 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 B

Issued by California Public Utilities Commission.

Decision No. 77852 Application No. 52123.