

Decision No. 78034

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of McKay TRUCKING CO., a corpora- )  
tion, to sell, and MOROSA BROS. )  
TRANSPORTATION CO., a corporation, )  
to purchase, a portion of a cement )  
carrier certificate authorizing )  
service to and within the Counties )  
of Alameda, Contra Costa, Kings, )  
Merced, Monterey, Santa Clara, and )  
Stanislaus, in the State of Cali- )  
fornia, pursuant to Sections 851- )  
853 of the California Public )  
Utilities Code. )

Application No. 52219  
(Filed September 30, 1970)

O P I N I O N

McKay Trucking Co., a corporation, hereinafter called McKay, has applied herein to sell a portion of a cement carrier certificate to Morosa Bros. Transportation Co., a corporation hereinafter called Morosa, for the sum of \$2,900, plus \$200 for goodwill. McKay will transfer the authority to operate in the Counties of Alameda, Contra Costa, Kings, Merced, Monterey, Santa Clara, Stanislaus and Yolo, California.

McKay recently sold a portion of its operating rights and its authority was restated in Decision No. 77852, dated October 20, 1970, in Application No. 52123.

Morosa is presently operating as a cement carrier and on December 31, 1969 had a net worth of \$407,041.

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 certificates presently held by McKay and Morosa 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.

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. 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 May 1, 1971, McKay Trucking Co. may sell and transfer, and Morosa Bros. Transportation Co. may purchase and acquire, the operative rights and property 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 and seller shall amend or reissue their tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or

established, as their 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer, unless seller continues operations under a certificate or under a permit with revenues requiring the filing of an annual report on the operations retained.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, certificates of public convenience and necessity are granted to Morosa Bros. Transportation Co. and McKay Trucking Co., 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. 77852, dated October 20, 1970 in Application No. 52123, and Resolution No. 13821, Sub. 54, dated June 23, 1964, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 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 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 9th day of DECEMBER, 1970.

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Chairman  
*Augustin*  
\_\_\_\_\_  
*William J. Jensen, Jr.*  
\_\_\_\_\_  
*John P. ...*  
\_\_\_\_\_  
*James L. Stinson*  
Commissioners

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

Morosa Bros. Transportation Co., 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 Alameda, Butte, Contra Costa, Fresno, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Mono, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura, 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 A)

Issued by California Public Utilities Commission.

Decision No. 78034, Application No. 52219.

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 214.1 of the Public Utilities Code from any and all points of origin to any and all points within the Counties of Fresno, Sacramento, San Benito, San Luis Obispo, Santa Barbara and Solano, 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. 78034, Application No. 52219.