

JR

Decision No. 78403

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of PHILLIPS TRUCKING CORP., a
corporation, to sell and transfer
a certificate of public convenience
and necessity authorizing the
transportation of cement to
ALLAN L. WENGER.

Application No. 51839
(Filed April 21, 1970)

In the Matter of the Application
of PHILLIPS TRUCKING CORP., a
corporation, to sell and transfer
a certificate of public convenience
and necessity authorizing the
transportation of cement to
FRANK E. HICKS, dba FRANK E. HICKS
TRUCKING.

Application No. 51903
(Filed May 15, 1970)

O P I N I O N

Phillips Trucking Corp. requests authority to sell and transfer portions of its certificated authority as a cement carrier to Frank E. Hicks and Allan L. Wenger.

The certificate was granted by Decision No. 76468 dated November 25, 1969, in Application No. 51356, and authorizes the transportation of cement from any and all points of origin to and within the Counties of Alameda, Contra Costa, Fresno, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, Tulare, Ventura and Yolo.

According to the agreements entered into between the parties, Phillips Trucking Corp. has agreed to sell and transfer the authority to serve the County of San Mateo to Allan L. Wenger for a cash consideration of \$1,000, and the authority to serve the County of Contra Costa to Frank E. Hicks for a cash consideration of \$1,000. As of March 31, 1970, Allan L. Wenger indicated a net worth in the amount of \$84,500.

Frank E. Hicks presently conducts operations pursuant to a radial highway common carrier permit, a dump truck carrier permit and a certificate of public convenience and necessity authorizing operations as a cement carrier as authorized by Decision No. 77796, dated October 6, 1970, in Application No. 51909. As of December 31, 1969, Frank E. Hicks indicated a net worth of \$49,210.

After consideration the Commission finds that the proposed transfers 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 transfers are consummated, the revocation of the certificates presently held by Phillips Trucking Corp. and Frank E. Hicks and the issuance of certificates in appendix form to Phillips Trucking Corp., Allan L. Wenger and Frank E. Hicks.

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 December 1, 1971, Phillips Trucking Corp. may sell and transfer, and Allan L. Wenger and Frank E. Hicks may each purchase and acquire, the operative rights referred to in the respective applications.
2. Within thirty days after the consummation of the transfers herein authorized, purchasers shall each notify the Commission, in writing, of that fact and within said period shall file with the Commission true copies of any bills of sale or other instruments of transfer which may be executed to effect said transfers.
3. Purchasers and seller shall amend or reissue the 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 ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfers 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 authorities granted by this decision.
4. In the event the transfers authorized in paragraph 1 hereof are consummated, certificates of public convenience and necessity are hereby granted to Phillips Trucking Corp., Allan L. Wenger and

Frank E. Hicks 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, B and C, 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 Decisions Nos. 76468 and 77796, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfers herein authorized are consummated, seller and purchasers shall file written acceptances of the certificates herein granted. Seller and purchasers 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.

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

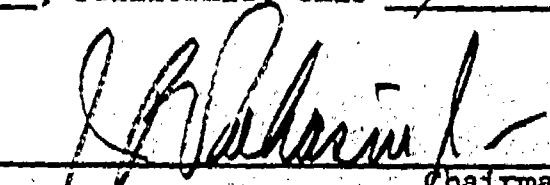
8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport


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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 MARCH, 1971.



Chairman


Vernon L. Sturgeon


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Phillips Trucking Corp., 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 Counties of:

Alameda	Merced	San Luis Obispo
Fresno	Monterey	Santa Barbara
Humboldt	Napa	Santa Clara
Imperial	Orange	Solano
Inyo	Riverside	Sonoma
Kern	Sacramento	Tulare
Kings	San Benito	Ventura
Lake	San Bernadino	Yolo
Los Angeles	San Diego	
Madera	San Francisco	
Marin	San Joaquin	

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. 78403, Applications Nos. 51839 and 51903.

Allan L. Wenger, an individual, 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 County of San Mateo 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. 78403, Application No. 51839.

Frank E. Hicks, an individual, doing business as Frank E. Hicks Trucking, 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 Counties of Contra Costa and El Dorado 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 C)

Issued by California Public Utilities Commission.

Decision No. 78403, Application No. 51903.