

ORIGINAL

Decision No. 79002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Lloyd T. Amaral, an individual)
doing business under the firm)
name and style of Amaral Trucking,)
to transfer cement carrier)
authority and related assets,)

and)
Amaral Trucking, Inc., a)
California corporation, to)
acquire said operating rights)
and assets, assume liabilities)
and issue capital stock.)

Application No. 52732
Filed June 30, 1971

O P I N I O N

Lloyd T. Amaral, doing business as Amaral Trucking, seeks an order of the Commission authorizing him to transfer his cement carrier certificate of public convenience and necessity and related assets to Amaral Trucking, Inc., and the latter seeks authority to assume outstanding liabilities and to issue 750 shares of its \$100 par value capital stock.

Lloyd T. Amaral operates as a cement carrier pursuant to the certificate of public convenience and necessity granted by Decision No. 75532, dated April 8, 1969, in Application No. 50931.

Amaral Trucking, Inc. is a California corporation incorporated on or about June 10, 1971. The company proposes to acquire said cement carrier certificate of public convenience and necessity and related assets, subject to liabilities, from Lloyd T. Amaral in exchange for 750 shares of its \$100 par value capital stock. Its pro forma balance sheet as of December 31, 1970, after giving effect to the proposed transactions, based upon information in the application and in Exhibit C, attached to the application, is summarized as follows:

<u>Assets</u>	
Current assets	\$ 7,382
Net tangible property	<u>134,870</u>
Total	<u>\$142,252</u>
<u>Liabilities</u>	
Current liabilities	\$ 2,764
Equipment obligations	43,417
Capital stock	75,000
Capital surplus	<u>21,071</u>
Total	<u>\$142,252</u>

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.

3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the properties to be transferred.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Lloyd T. Amaral and the issuance of a certificate in appendix form to Amaral Trucking, Inc.

Amaral Trucking, 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, these 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. Lloyd T. Amaral may sell and transfer, and Amaral Trucking, Inc. may purchase and acquire, the cement

carrier certificate of public convenience and necessity and related assets referred to in the application. The transfer may be made effective as of July 1, 1971 for accounting purposes.

2. Amaral Trucking, Inc., on or after the effective date hereof and on or before October 31, 1971, in acquiring said certificate and assets, may assume outstanding liabilities and issue not exceeding 750 shares of its \$100 par value capital stock.

3. Amaral Trucking, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Amaral Trucking, Inc. 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.

5. Amaral Trucking, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the cement 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.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Amaral Trucking, 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.

7. The certificate of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 75532, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

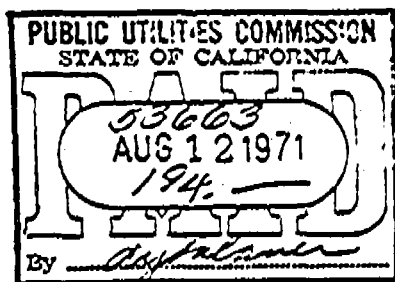
8. Within thirty days after the transfer herein authorized is consummated, Amaral Trucking, Inc. shall file a written acceptance of the certificate herein granted. Amaral Trucking, Inc. is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and the insurance requirements of the Commission's General Order No. 100-F.

9. Amaral Trucking, Inc. 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.

10. Amaral Trucking, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Amaral Trucking, Inc. elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. This order shall become effective when Amaral Trucking, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$194.

Dated at San Francisco, California,
this 10th day of AUGUST, 1971.



[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners

Amaral Trucking, Inc., 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 all points and places within the Counties of Alameda, Butte, Contra Costa, El Dorado, Fresno, Glenn, Kern, Madera, Marin, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Tuolumne, 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. ~~29002~~, Application No. 52732.