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Decision No. 79607

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PHILLIPS TRUCKING CORP., a corpora-)
tion, to transfer, and JOHN S. LOPES,)
JR., an individual, doing business as)
LOPES TRUCKING SERVICE, to acquire a)
Cement Carrier Certificate.)

Application No. 53016
(Filed November 22, 1971)

O P I N I O N

Phillips Trucking Corp. requests authority to sell and transfer, and John S. Lopes, Jr. requests authority to purchase and acquire, a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 79140 dated April 2, 1971, in Application No. 52761 and authorizes operations between various counties within the state. Phillips Trucking Corp. has requested and has been granted authority to suspend operations pursuant to Decision No. 79140 in Application No. 52761. The transfer relates to the Counties of Alameda, Marin and Humboldt only. The agreed cash consideration is \$1,200. Applicant purchaser is presently engaged as a cement carrier pursuant to Decision No. 79049 dated August 24, 1971, in Application No. 52685 and as of December 31, 1970 indicated a net revenue in the amount of \$58,945.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 applicants and the restatement of their operating authorities in appendix form to reflect the transfer herein authorized.

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, 1972, Phillips Trucking Corp. may sell and transfer, and John S. Lopes, Jr. may purchase and acquire, the operative rights 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 shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his 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 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to John S. Lopes, Jr., authorizing him to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix B attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 79049, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. The certificate of public convenience and necessity granted to Phillips Trucking Corp. by Decision No. 79140 is amended as set forth in Appendix A, attached hereto and made a part hereof effective concurrently with the tariff filings required to be filed by John S. Lopes, Jr., by paragraph 3 hereof. Said certificate shall remain in suspension as set forth in Decision No. 79140 and Phillips Trucking Corp. shall comply with all conditions of the suspension and with all requirements set forth in Decision No. 79140 before resuming operations.


7. Within thirty days after the transfer herein authorized is consummated, John S. Lopes, Jr., shall file a written acceptance of the certificate herein granted. John S. Lopes, Jr., is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he 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.

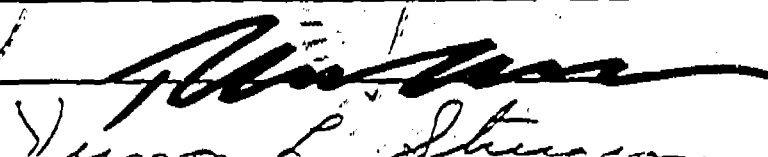
8. Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their 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 the date hereof.

Dated at San Francisco, California, this 18th
day of JANUARY, 1972.



Chairman




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:

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

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.

Amended by Decision No. 79607, Application No. 53016.

John S. Lopes, Jr., 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
Butte
El Dorado
Humboldt
Lake
Marin

Merced
Napa
Placer
Sacramento
San Francisco
San Joaquin

San Mateo
Santa Clara
Shasta
Solano
Stanislaus
Yolo
Yuba

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. 79607, Application No. 53016.