

ORIGINAL

Decision No. 79638

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARTWICK AND HAND, )  
 INC., a California corporation, under )  
 Section 1064 of the Public Utilities )  
 Code for a certificate of public )  
 convenience and necessity to operate )  
 as a cement carrier from any and all )  
 points of origin to and within San )  
 Joaquin County, and for ex-parte )  
 emergency temporary authority. )

Application No. 52789  
 (Filed August 3, 1971)

Karl K. Roos, Attorney at Law, for  
 applicant.  
David K. Graham, for Fikse Bros. Inc.; and  
George B. Shannon, for Southwestern  
 Portland Cement Company, interested parties.  
Harold Lane, for the Commission staff.

O P I N I O N

By its application, as amended, Hartwick and Hand, Inc., presently providing service as a cement carrier between various counties within the state, requests authority to extend service to shipments of cement originating in the County of San Bernardino and destined to points within the County of San Joaquin.

A public hearing was held before Examiner Daly on December 7, 1971, at Los Angeles and the matter was submitted.

Applicant owns and operates 12 tractors and 12 trailers and is located in Victorville. As of September 30, 1971, it indicated a net worth in the amount of \$138,555.

The record indicates that pursuant to temporary authority granted by Decision No. 78979 dated August 3, 1971, applicant served Southwestern Portland Cement Company from said customer's portland cement plant in Victorville on shipments moving to the Johns-Manville Company's plant in Stockton during the recent rail strike.

A witness representing the Southwestern Portland Cement Company testified that the shipments primarily move by rail, but there are many occasions, particularly during the agricultural seasons, when rail cars are not available. He further testified that during the rail strike his company contacted approximately twenty cement carriers and except for Fikse Bros., Inc. was unable to obtain service.

There was no appearance in protest to the granting of the application.

After consideration the Commission finds that public convenience and necessity require the granting of the application, as amended.

Hartwick and Hand, Inc., a California corporation, 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 these 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. A certificate of public convenience and necessity is granted to Hartwick and Hand, Inc., authorizing it to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code between the points as set forth in Appendix A attached hereto and by reference made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.



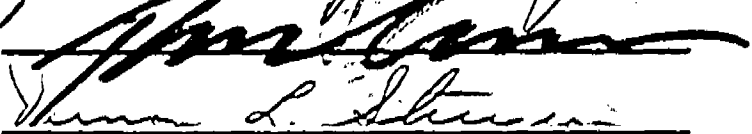

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-F.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117.
- (e) Applicant 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.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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3. Concurrent with the tariff filing required by ordering paragraph 2(b) hereof the operating authority granted by Decision No. 68106 dated October 27, 1964 in Application No. 47017 is hereby revoked.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of JANUARY, 1972.

  
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Chairman  
  
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Commissioners

Hartwick and Hand, 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 in the Counties of Fresno, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Diego and Ventura, and from any and all points of origin within the County of San Bernardino to all points and places in the County of San Joaquin, 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. 79638, Application No. 52789.