

Decision No. 79745

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 sell, and of RALPH L. )  
HARRIS, FLORENCE L. HARRIS, GLENN )  
M. HARRIS and ROBERTA S. HARRIS, Co- )  
partners doing business under the )  
fictitious firm name of HARRIS )  
TRANSPORTATION COMPANY, to purchase, )  
a portion of a cement carrier certi- )  
ficate authorizing service to and )  
within the Counties of Lake, Napa, )  
Solano, Yolo, and San Joaquin, in )  
the State of California, pursuant )  
to Sections 851-853 of the California )  
Public Utilities Code. )

Application No. 53029  
(Filed November 24, 1971)

O P I N I O N

By this application, Phillips Trucking Corp. (Phillips), a corporation, seeks authority to sell and transfer and Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, copartners doing business as Harris Transportation Company (Harris), seek authority to purchase and acquire a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier. There are no protests.

Phillips possesses a certificate of public convenience and necessity authorizing operations as a cement carrier from any and all points of origin to any and all points of destination within the Counties of Lake, Napa, Sacramento, San Francisco, San Joaquin, Solano and Yolo.

Said certificate was originally issued by this Commission in Resolution No. 13823, and restated in Decisions Nos. 76468, 78403, 78505, 79140 and 79274 and is now stated in Decision No. 79607. The certificate is now under suspension pursuant to Decision No. 78604, Application No. 52449.

Harris is the owner and holder of a cement certificate of public convenience and necessity issued to it by this Commission in Resolution No. 13825 (Sub. No. 52). Said certificate authorizes the transportation of cement to and within the Counties of Fresno, Inyo, Imperial, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare and Ventura. In addition, Harris is engaged in the transportation of property between points in the State of California, as a highway common carrier pursuant to a certificate of public convenience and necessity issued in Decision No. 62906 and transferred to Harris by Decision No. 75143. Harris also operates pursuant to highway carrier permits.

By this application, Phillips seeks authority to sell and Harris seeks authority to purchase, pursuant to Sections 851-853 of the California Public Utilities Code, that portion of the Phillips cement certificate above described which authorizes service to and within the Counties of Lake, Napa, Solano, Yolo and San Joaquin, California. The purchase price for said portion of the Phillips cement certificate is the sum of \$2,000. No other asset is involved in this sale. The purchase price is payable in cash upon consummation.

Applicants allege that the proposed transfer of that portion of the Phillips cement certificate, above described, to Harris will be in the public interest for the following reasons:

- (a) The partners of the transferee, Harris, have had considerable experience in the transportation of cement for a number of years. Harris presently owns a large number of units of motor vehicle equipment specifically designed for the transportation of cement. It has adequate financial resources; and the price to be paid for the described portion of the Phillips cement certificate is fair and reasonable and, therefore, is in the public interest. The total purchase price to be paid for the described portion of the Phillips cement certificate will be paid by Harris to Phillips with funds presently held by it.

- (b) There will be no change in the rates assessed to the shipping public.
- (c) The entry of Harris in the cement transportation industry to and within the Counties of Lake, Napa, Solano, San Joaquin and Yolo, California, will be balanced by the withdrawal of Phillips therefrom and, therefore, there will be no change in competitive relationships.
- (d) Harris presently is authorized to provide service to and within the Counties of Fresno, Inyo, Kern, Los Angeles, Kings, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare and Ventura, and, therefore, the proposed transaction will enable it to provide an expanded service to the public without changing competitive relationships.<sup>1/</sup>

Exhibit B attached to the application contains copies of Harris' balance sheet as of October 22, 1971 and its profit and loss statements for the year 1970 and the first six months of 1971. The balance sheet discloses assets of \$1,164,671.20 offset by liabilities of \$130,486.86. The profit and loss statements show net profits before taxes of \$158,127 for the year 1970 and \$139,625 for the first six months of 1971.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest, and a public hearing is not necessary. The Commission concludes that the application should be granted.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Harris, a revision of the certificate presently held by Phillips and the issuance of a certificate in appendix form to Harris.

Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, copartners doing business as Harris Transportation Company, 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

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<sup>1/</sup> Applicant Harris is also authorized to serve Imperial County.

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 September 1, 1972 Phillips Trucking Corp. may sell and transfer and Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, copartners doing business as Harris Transportation Company, may purchase and acquire the operative rights referred to in Application No. 53029.

2. Within thirty days after the consummation of the transfer herein authorized, purchasers 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. Applicants 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 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. The certificate of public convenience and necessity granted to Phillips Trucking Corp. by Decision No. 79140, as amended by Decisions Nos. 79274 and 79607, is further 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 Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, doing business as Harris Transportation Company, by paragraph 3 hereof. Said certificate shall remain in suspension as set forth in Decision No. 78604 and Phillips Trucking Corp. shall comply with all conditions of the suspension and with all requirements set forth in Decision No. 78604 before resuming operations.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, copartners doing business as Harris Transportation Company, authorizing them 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 B, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13825 (Sub. No. 52), which certificate is revoked effective concurrently with the effective date of the tariff filings required to be filed by purchasers by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchasers shall file a written acceptance of the certificate herein granted. Purchasers are placed on notice, that, if they accept the certificate 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-Series.

8. Purchasers 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. Purchasers shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchasers 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 23rd  
day of FEBRUARY, 1972.

William Aguero Jr. Chairman  
J. P. Vukasin, Jr.  
Vernon L. Sturgeon  
J. P. Vukasin, Jr. Commissioners

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

Appendix A.  
(Dec. 79140)

PHILLIPS TRUCKING CORP. Second Revised Page 1  
Cancels  
First Revised Page 1

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:

Sacramento and San Francisco

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. 79745, Application No. 53029.

Appendix B      RALPH L. HARRIS, FLORENCE L. HARRIS, Original Page 1  
GLENN M. HARRIS and  
ROBERTA S. HARRIS  
dba  
HARRIS TRANSPORTATION COMPANY

Ralph L. Harris, Florence L. Harris, Glenn M. Harris  
and Roberta S. Harris, co-partners, dba Harris Transportation  
Company, by the certificate of public convenience and necessity  
granted by the decision noted in the margin, are 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	Mono	San Luis Obispo
Imperial	Napa	Santa Barbara
Inyo	Orange	Solano
Kern	Riverside	Tulare
Kings	San Bernardino	Ventura
Lake	San Diego	Yolo
Los Angeles	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 E)

Issued by California Public Utilities Commission.

Decision No. 79745, Application No. 53029.