

Decision No. 79858

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 FRANK E.)
HICKS, an individual, doing business)
as FRANK E. HICKS TRUCKING.)

Application No. 53156
(Filed February 17, 1972)

O P I N I O N

Phillips Trucking Corp. requests authority to sell and transfer and Frank E. Hicks, doing business as Frank E. Hicks Trucking, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 79607, dated January 18, 1972, in Application No. 53016 and authorizes the transportation of cement to and within the Counties of San Francisco and Sacramento. The agreed cash consideration is \$1,000.

Applicant purchaser is presently authorized to operate as a cement carrier to and within the Counties of Contra Costa and El Dorado pursuant to Decision No. 78403, in Application No. 51903. Applicant purchaser owns and operates 11 units of equipment and as of December 31, 1971, indicated a net worth in the amount of \$74,076.

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 Phillips Trucking Corp. and Frank E. Hicks and the issuance of a new certificate in appendix form to Frank E. Hicks.

Frank E. Hicks 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. On or before December 1, 1972, Phillips Trucking Corp. may sell and transfer, and Frank E. Hicks 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 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-Series.

Failure to comply with and observe the provisions of General Order No. 117-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Frank E. Hicks, authorizing him 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.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificates of public convenience and necessity granted by Decisions Nos. 79607 and 78403, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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-Series.

8. Purchaser shall maintain his 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

A. 53156 vo

this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, he 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 28th
day of MARCH, 1972.

William L. Squire Chairman
John M. [unclear]
James L. [unclear]
[unclear] Commissioners

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

Appendix A

FRANK E. HICKS
doing business as
FRANK E. HICKS TRUCKING

Original Page 1

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
El Dorado

Sacramento
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.

Decision No. ~~79858~~, Application No. 53156.