

Decision No. 80652

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
A. W. HAYS TRUCKING, INC., a corporation,  
to sell and transfer a certificate of  
public convenience and necessity as a  
cement carrier to NORTHERN CEMENT  
TRANSPORTATION, INC., a California  
corporation.

Application No. 53569  
(Filed September 6, 1972)

O P I N I O N

A. W. Hays Trucking, Inc., hereinafter called Hays, requests authority to sell and transfer, and Northern Cement Transportation, Inc., hereinafter called Northern, requests authority to purchase and acquire, a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

There were no protests to the application.

By agreement dated August 28, 1972, Northern entered into an agreement with Hays whereby it agreed to purchase that portion of the cement carrier operating authority of Hays authorizing service to the Counties of Kern and San Luis Obispo for a total purchase price of \$3,000.

A balance sheet of Northern dated September 30, 1971 shows assets of \$159,214.83 and an income statement dated January 1, 1971 to September 30, 1971 shows net income of \$20,735.18.

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 December 1, 1972, A. W. Hays Trucking, Inc. may sell and transfer, and Northern Cement Transportation, Inc. 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 and seller shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations, pursuant to authorities granted herein. The tariff filings shall be made effective not earlier than ten days after the effective date of this order or 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 Northern Cement Transportation, Inc., authorizing it 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 A 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. 78044, 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 A. W. Hays Trucking, Inc., by Decisions Nos. 72414 and 72863 are revoked and an in-lieu certificate is granted as set forth in Appendix B, attached hereto and made a part hereof, effective concurrently with the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, applicants shall file a written acceptance of the certificates herein granted. Applicants are placed on notice that, if they accept the certificates 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. 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 is the date hereof.

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

James L. Steiner  
President

J. P. Williams  
Alan W. ...  
...  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Northern Cement Transportation, Inc., a corporation, 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 by 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, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kern, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Shasta, Solano, Sonoma, Sutter and Yolo.

Note: 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. 80652, Application No. 53569.

A. W. Hays Trucking, Inc., a corporation, 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, Colusa, Contra Costa, Del Norte, Fresno, Glenn, Humboldt, Imperial, Kings, Lake, Los Angeles, Madera, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo and 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.

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