

ek

ORIGINAL

Decision No. 82201

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
TANKWAYS, a corporation, to sell, and  
MILES & SONS TRUCKING SERVICE, INC.,  
a corporation, to purchase,  
certificates of convenience and  
necessity to operate as a highway  
common carrier of petroleum products  
and as a petroleum irregular route  
carrier, pursuant to Sections 851  
and 853 of the California Public  
Utilities Code.

Application No. 54238  
(Filed August 14, 1973)

OPINION AND ORDER

Applicant Miles & Sons Trucking Service, Inc. (purchaser) requests authority to purchase, and applicant Tankways (seller) requests authority to sell, the latter's certificates of public convenience and necessity to operate as a highway common carrier and as a petroleum irregular route carrier, the two certificates having been acquired by seller pursuant to Decision No. 55603 dated September 24, 1957. The sale price is to be \$3,500.

Purchaser operates as a dump truck carrier, highway contract carrier, radial highway common carrier, and a cement carrier and represents that it is a wholly owned subsidiary of Kaiser Industries Corporation. The application shows that as of June 30, 1973 purchaser had a net worth of \$728,837; and for the six months ended June 30, 1973, it had a net profit from operations of \$19,967 on a gross revenue of \$679,138. Upon consummation of the transaction purchaser asserts that it will make the appropriate tariff filings. Seller asserts that it presently participates in five different local freight tariffs published by the Western Motor Tariff Bureau but is not a party to any through routes or rates.

A copy of the application was served on the office of the California Trucking Association at Burlingame and at Los Angeles and was noticed in the Commission's Daily Calendar of August 15, 1973. No objections to the granting of the application have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Tankways and the issuance of certificates in appendix form to Miles & Sons Trucking Service, Inc. Because purchaser is affiliated with several large shippers and receivers of traffic which may be hauled under the certificates to be transferred, the certificates upon transfer should be restricted against the purchaser engaging subhaulers at less than the rates and charges published in purchaser's tariffs to be filed with the Commission.

Miles & Sons Trucking Service, Inc. is 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 March 1, 1974, Tankways may sell and transfer the operative rights referred to in the application to Miles & Sons Trucking Service, Inc.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificates and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the 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 transfer. 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. 80-Series. Failure to comply with the provisions of General Order No. 80-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 transfer the 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 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Miles & Sons Trucking Service, Inc., authorizing it to operate (1) as a highway common carrier as defined in Section 213 of the Public Utilities Code and, (2) as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code as set forth in Appendices A and B, attached hereto and made a part hereof, subject to the condition that:

"Whenever Miles & Sons Trucking Service, Inc. engages other carriers for the transportation of property of Miles & Sons Trucking Service, Inc., Kaiser Cement & Gypsum Corporation, or Kaiser Industries

Corporation, affiliated corporations, companies, subsidiaries, or divisions thereof or customers or suppliers of said corporations, companies, divisions, or individuals, Miles & Sons Trucking Service, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Miles & Sons Trucking Service, Inc.'s tariffs on file with this Commission."

6. The certificates of public convenience and necessity acquired by Tankways pursuant to Decision No. 55603 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. 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, it 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 4th day of DECEMBER, 1973.

Vernon L. Sturgeon  
President  
William J. Sykes  
William J. Sykes  
William J. Sykes  
William J. Sykes  
Commissioners

Miles & Sons Trucking Service, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

- A. Petroleum products in bulk, except:
  - 1. Those requiring pressurized or insulated tanks.
- B. Between all points and places on the following routes and all points within 50 miles laterally thereof:
  - 1. U. S. Highway 101 between the Oregon-California State Line and the City of Los Angeles;
  - 2. Interstate Highway 5 between the Oregon-California State Line and Sacramento, and between Wheeler Ridge and the International Border with Mexico;
  - 3. State Highway 86 between Indio and the International Border with Mexico;
  - 4. State Highway 99 between Red Bluff and Wheeler Ridge;
  - 5. State Highway 299 between Redding and Alturas;
  - 6. U. S. Highway 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;
  - 7. State Highway 36 between its junction with State Highway 99, near Red Bluff, and its junction with U. S. Highway 395, at Johnstonville;
  - 8. State Highway 20 between Marysville and its junction with Interstate Highway 80;

Issued by California Public Utilities Commission.

Decision No. 82201, Application No. 54238.

9. Interstate Highway 80 between San Francisco and the California-Nevada State Line;
10. U. S. Highway 50 between Sacramento and the California-Nevada State Line;
11. U. S. Highway 395 between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, near Hesperia;
12. U. S. Highway 66 (Interstate Highway 15), between Barstow and the City of Los Angeles;
13. Interstate Highway 40 (U. S. Highway 66), between Barstow and Needles, via Amboy and Essex;
14. Interstate Highway 10 between the City of Los Angeles and the California-Arizona State Line;
15. Interstate Highway 15 between Barstow and the California-Nevada State Line;
16. State Highway 127 between Baker and the California-Nevada State Line; and
17. Interstate Highway 8 between the City of San Diego and the California-Arizona State Line.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 82201, Application No. 54238.

Miles & Sons Trucking Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of:

1. Petroleum products requiring pressurized or insulated tanks, between all points and places in the State of California.
2. Petroleum and petroleum products in tank-trucks or tank-trailers between all points and places in the State of California except the points and places described in Appendix A hereof, authorized to be served by it as a highway common carrier.

RESTRICTION: Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 82201, Application No. 54238.