

Decision No. 82493**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 K LINES, INC., an Oregon corpo-  
ration.

Application No. 53994  
(Filed April 26, 1973)

Loughran, Berol & Hegarty, by Marshall G. Berol, and Leigh B. Morris, Attorneys  
at Law, for applicants.  
E. J. Bertana, for Lone Star Industries, Inc.,  
Northern California Division, interested  
party.

O P I N I O N

A. W. Hays Trucking, Inc. (seller) and K Lines, Inc. (buyer) request authority to sell and transfer a cement carrier certificate of public convenience and necessity issued by this Commission. Buyer is the holder of and conducting operations under a cement carrier certificate of public convenience and necessity issued by this Commission. The transfer involves 37 counties, including four counties transferee is already authorized to serve under its certificated authority. A protest to the application was withdrawn on the date of hearing. Hearing was held before Examiner Porter at San Francisco on July 30, 1973 on which date the matter was submitted.

Buyer is to pay \$15,000 for the certificate, and seller is to execute a covenant not to compete. A balance sheet of the seller at February 28, 1973 shows total assets of \$1,215,499.54, and an income statement for the year 1972 for the buyer shows net earnings of \$34,445.

K Lines, Inc., a foreign corporation, has on file, in T-60374, a certificate of qualification authorizing it to transact intrastate business in this State.

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 find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. The order which follows will provide for, in the event the transfer is consummated, the revocation of the cement certificates presently held by A. W. Hays Trucking, Inc. and K Lines, Inc. and the issuance of a certificate in appendix form to K lines, Inc. By revoking the cement certificate granted heretofore to K Lines, Inc., by Resolution No. 13821, Sub. No. 27, the transferee will have only one cement certificate to serve, among others, the counties of Butte, Del Norte, Shasta, and Siskiyou. This Commission does not grant to a carrier more than one certificate to transport the same commodities between the same points.

K Lines, 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 November 30, 1974, A. W. Hays Trucking, Inc. may sell and transfer the operative rights referred to in the application to K Lines, Inc.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate 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. 117-Series. Failure to comply with the provisions of General Order No. 117-Series may result in a cancellation of the operating authority granted by this decision.

4. 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, a certificate of public convenience and necessity is granted to K Lines, Inc., authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted seller by Decision No. 81245 and Resolution No. 13821, Sub. No. 27, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchaser 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.

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 20<sup>th</sup>  
day of FEBRUARY, 1974.

Vernon L. Sturgeon  
President  
W. J. [illegible]  
[illegible]  
[illegible]  
[illegible]  
Commissioners

K Lines, 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 any and all points in the Counties of:

Alameda, Butte, Colusa, Contra Costa, Del Norte,  
Fresno, Glenn, Humboldt, Kings, Lake, Madera,  
Marin, Mendocino, Merced, Monterey, Napa, Nevada,  
Placer, Plumas, Sacramento, San Benito, San Francisco,  
San Joaquin, San Mateo, Santa Clara, Santa Cruz,  
Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter,  
Tehama, Trinity, Tulare, 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 A)

Issued by California Public Utilities Commission.

Decision No. ~~82493~~, Application No. 53994.