

Decision No. 84032

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MORE TRUCK LINES, a corporation to
transfer, and of ALL AMERICAN ASPHALT,
a corporation, to acquire, a petroleum
irregular route certificate of public
convenience and necessity between all
points and places in the State of
California.

Application No. 55292
(Filed November 4, 1974)

O P I N I O N

This is a joint application by More Truck Lines (More), a corporation, to transfer, and All American Asphalt (AAA), a California corporation, to acquire the statewide petroleum irregular route certificate of public convenience and necessity presently held by More pursuant to Decision No. 68427 dated January 5, 1965 in Application No. 47090.

AAA is not presently regulated by this Commission, as it is engaged in the proprietary transportation of bulk petroleum products. More's principal business is transporting cement, aggregates, and other dry commodities in bulk, as well as bulk petroleum products.

The applicants represent as follows:

1. They are commonly owned.
2. AAA has the financial ability, equipment, and necessary experience to serve the shipping public.
3. There will be no change in the management of the operation.
4. The agreement for the transfer of More's certificate is oral, and no consideration is involved.

5. The proposed transfer is in the public interest, as it would allow AAA to operate more efficiently by blending More's existing service with its own proprietary carriage.

6. AAA will adopt the existing tariffs of More, as set out in the application.

7. This transfer will not adversely affect competitive carriers.

8. Deviation from Rule 37(a) of the Commission's Rules of Practice and Procedure is warranted.

Findings

1. The proposed transfer would not be adverse to the public interest.

2. AAA has the financial resources, experience, and equipment to properly operate the proposed service.

3. There are no protests.

4. A public hearing is not necessary.

Conclusions

1. The proposed transfer should be allowed as set out in the order following.

2. Deviation from Rule 37(a) should be allowed.

3. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by More Truck Lines and the issuance of a certificate in appendix form to All American Asphalt, a corporation.

All American Asphalt, a corporation, 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 31, 1975, More Truck Lines, a corporation, may transfer the operative rights referred to in the application to All American Asphalt, a corporation.
2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. Transferee 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 transferee 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, a certificate of public convenience and necessity is granted to All American Asphalt, a corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points set forth in Appendix A of this decision.

6. The certificate of public convenience and necessity acquired by More Truck Lines by Decision No. 68427 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

8. Transferee 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.

9. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of

collect on delivery shipments. If transferee 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 28th day of JANUARY, 1975.

William L. Stinson
President
William J. Spence
Leonard Ross

Commissioners

All American Asphalt, by the certificate of public convenience and necessity granted in 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 petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

Restrictions:

Whenever All American Asphalt engages other carriers for the transportation of property of J. D. Sisemore and/or D. D. Sisemore and/or Corona Rock and/or Dix Leasing Corp. and/or More Truck Lines and/or All American Asphalt or customers or suppliers of said individuals, company, or corporations, All American Asphalt shall not pay such other carriers rates and charges less than the rates and charges published in All American Asphalt's tariffs on file with this Commission. ✓

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 A)

Issued by California Public Utilities Commission.

Decision No. 84632, Application No. 55292.