

ORIGINALDecision No. 84809

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of John S. Lopes, Jr., an)
 Individual doing business as)
 LOPES TRUCKING SERVICE, to)
 transfer, and LOPES TRUCKING)
 SERVICE, INC to acquire a Cement)
 Carrier Certificate.)

Application No. 35806
 (Filed July 14, 1975)

O P I N I O N

John S. Lopes, Jr., doing business as Lopes Trucking Service, (seller) seeks an order authorizing him to transfer to Lopes Trucking Service, Inc., a California corporation, (purchaser) his cement carrier certificate consisting of nineteen counties.

The certificate to service the nineteen counties was granted by Decision No. 79507 dated January 14, 1972 in Application No. 53016. This decision, which authorized John S. Lopes, Jr. to purchase authority to service three additional counties, restated the cement carrier authority previously held by him.

Applicant purchaser is presently authorized to operate as a highway common carrier^{1/} to transport specified commodities with weight restriction, between certain designated points and within certain counties in Northern California by Decision No. 24376 dated April 29, 1975 in Application No. 55197. It also operates pursuant to permitted authorities transferred to it from applicant seller and authority issued by the Interstate Commerce Commission. This corporation is presently operating twenty-nine

^{1/} The application for highway common carrier authority was originally filed in the name of John S. Lopes, Jr. as an individual but was subsequently amended to substitute the newly formed corporation as applicant.

pieces of equipment and its net worth on March 31, 1975 stood at \$122,699.47.

The application alleges that the applicant seller who holds 50% of the outstanding shares of stock in said corporation, wishes to retire from active participation in the trucking business. It further alleges that said individual has exercised his cement carrier certificate by continuously transporting shipments of cement.

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 completed, the revocation of the certificate presently held by John S. Lopez, Jr. and the issuance of a certificate in appendix form to Lopes Trucking Service, Inc.

Purchaser 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 December 1, 1975, John S. Lopez, Jr. may sell and transfer the operative rights and property referred to in the application to Lopes Trucking Service, 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 Lopez Trucking Service, 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 of this decision.

5. The certificate of public convenience and necessity granted by Decision No. 79607 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the 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. 34-Series for the transportation of collect on delivery shipments. If applicant 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 19th day of August, 1975.

~~William Synovis~~

President
William Synovis

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Lopes 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 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
El Dorado
Humboldt
Lake
Marin

Merced
Napa
Placer
Sacramento
San Francisco
San Joaquin

San Mateo
Santa Clara
Shasta
Solano
Stanislaus
Yolo
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. 84809, Application No. 55806.