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ORIGINAL

Decision No. 85616

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of TED A. LEWIS, individually)
and doing business as LEWIS)
TRUCKING, and ARLEN H. ALBERTS,)
individually and doing business)
as A & A TRANSPORTATION, to)
Acquire a Cement Carrier Certi-)
ficate.)

Application No. 56229
(Filed January 23, 1976)

OPINION

Ted A. Lewis, an individual, doing business as Lewis Trucking (seller), requests authority to sell and transfer, and Arlen H. Alberts, an individual, doing business as A & A Transportation Company (purchaser), requests authority to purchase and acquire that portion of a certificate of public convenience and necessity authorizing operations as a cement carrier to and within all points and places in the Counties of Kern, Madera, San Luis Obispo and Solano.

The certificate was granted by Decision 84677, dated July 15, 1975, in Application 55652. The agreed consideration is \$5,000, payable in full following the Commission's final order of approval of the requested transfer. Applicant seller has submitted copies of a shipping document and freight bill indicating that he has exercised his cement authority within the last year.

Pursuant to Decision 85365, dated January 20, 1976, in Application 56016 purchaser was issued a cement carrier certificate authorizing operations to and within the counties of Alameda, Contra Costa, Fresno, Sacramento, Santa Clara and Sonoma. Applicant purchaser also presently holds highway carrier permits issued by this Commission. His unaudited financial statement as of August 31, 1975 shows net worth of \$165,195 and his highway equipment includes three power units and five trailers.

Applicant seller participates in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. 21) which applicant purchaser proposes to adopt effective with consummation of the proposed transfer.

Applicants have requested relief from the provisions of the Commission's Rules of Practice and Procedure, which require that copies of the application be widely disseminated. It is alleged that a copy of the application was mailed to the California Trucking Association. Notice of the filing of the application was made in the Commission's Daily Calendar of January 29, 1976. No protests to the application have been received.

The Commission finds that the deviation from its Rules of Practice and Procedure should be authorized, that the proposed transfer would not be adverse to the public interest and concludes that the application should be granted. 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 Ted A. Lewis and Arlen H. Alberts and the issuance of certificates in appendix form to Ted A. Lewis and Arlen H. Alberts.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Applicants are 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 cancelled 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 September 1, 1976, Ted A. Lewis may sell and transfer the operative rights referred to in the application to Arlen H. Alberts.

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. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show that they have adopted or established, as their 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 shall comply with the Commission's General Order 117-Series. Failure to comply with the provisions of General Order 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, certificates of public convenience and necessity are granted to Ted A. Lewis and Arlen H. Alberts, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A and B, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted to Ted A. Lewis and Arlen H. Alberts, by Decision 84677 and Decision 85365 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants shall comply with the safety rules administered by the California Highway Patrol and insurance requirements of the Commissioner's General Order 100-Series.


7. 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 the dates established by the Commission each year, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

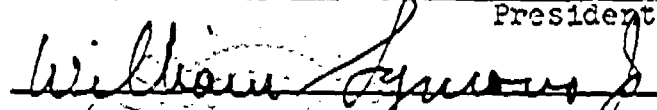
8. Applicants shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipment. If applicants elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

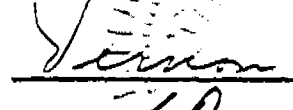
9. Applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested.

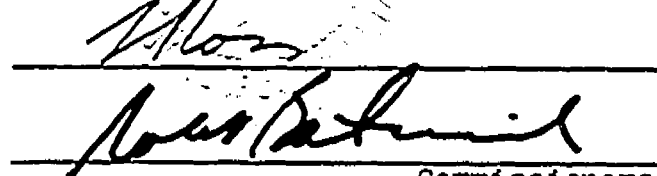
The effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 23rd day of March, 1976.



President


Vernon L. Sturgeon


Ron


Paul Bateman
Commissioners

TED A. LEWIS
(an individual)
doing business as
LEWIS TRUCKING

Ted A. Lewis, 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 all points and places within the Counties of Colusa, Fresno, Kings, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara, Tulare and Ventura, subject to the following 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 85616, Application 56229.

Appendix B

ARLEN H. ALBERTS
(an individual)
doing business as
A & A TRANSPORTATION COMPANY

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Arlen H. Alberts, by the certificate of public convenience and necessity granted in 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 all points and places in the Counties of Alameda, Contra Costa, Fresno, Kern, Madera, Sacramento, San Luis Obispo, Santa Clara, Solano, Sonoma, subject to the following 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)

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