

ORIGINAL

Decision No. 86129

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
John C. Wilcox, C. S. Wilcox and)
J. J. Peirano (deceased) to transfer,)
and of P & W Service, Inc., to acquire)
a cement carrier certificate and for)
P & W Service, Inc. to issue stock.)

Application No. 56560
(Filed June 16, 1976)

O P I N I O N

John C. Wilcox, C. S. Wilcox and J. J. Peirano (deceased), doing business as P & W Service, seek authority to transfer their cement carrier certificate to P & W Service, Inc., and the latter seeks authority to issue 20,000 shares of its \$1 par value common stock.

John C. Wilcox, C. S. Wilcox and J. J. Peirano (deceased), doing business as P & W Service, possess the cement carrier certificate granted by Resolution No. 13823, Sub. No. 36, dated June 23, 1964, in Application No. 46443, authorizing operations as a cement carrier from all points of origin to all points and places in the counties of Alameda, Contra Costa, Marin, Napa, Sacramento, San Francisco, San Joaquin, Santa Clara, Solano, Stanislaus, and Yolo.

P & W Service, Inc. is a California corporation incorporated on July 7, 1975. The corporation proposes to acquire said certificate and related assets, and to assume related liabilities, in exchange for not exceeding 20,000 shares of its \$1 par value capital stock. Its pro forma balance sheet at November 1, 1975, after giving effect to the proposed transaction, as summarized from Exhibit A attached to the application, is as follows:

<u>Assets</u>	
Current assets	\$24,847
Net fixed assets	31,137
Other assets	<u>1,420</u>
Total	<u>\$57,404</u>
<u>Liabilities</u>	
Current liabilities	\$39,452
Other liabilities	552
Capital stock	<u>17,400</u>
Total	<u>\$57,404</u>

The application shows that the actual number of shares to be issued would represent the assets transferred to the corporation less liabilities assumed at the time of consummation.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. There is no known opposition and there is no reason to delay granting the relief requested.

On the basis of the foregoing findings we conclude that the application should be granted and that the effective date of the order should be the date on which applicant pays the prescribed fee. 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 C. Wilcox, C. S. Wilcox and J. J. Peirano (deceased), and the issuance of a certificate in appendix form to P & W Service, Inc.

P & W 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. The authorization granted shall not be construed as a finding of value of the rights and properties authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or after the effective date hereof and on or before October 31, 1976, John C. Wilcox, C. S. Wilcox and J. J. Peirano (deceased) may sell and transfer the cement carrier certificate and property referred to in the application to P & W Service, Inc.
2. P & W Service, Inc., on or after the effective date hereof and on or before October 31, 1976, in the manner and for the purpose specified in the application, may assume liabilities and issue not exceeding 20,000 shares of its \$1 par value capital stock.
3. Within thirty days after the transfer P & W Service, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
4. P & W Service, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. P & W Service, Inc. 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.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to P & W 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.

7. The cement carrier certificate granted by Resolution No. 13823, Sub. No. 36, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

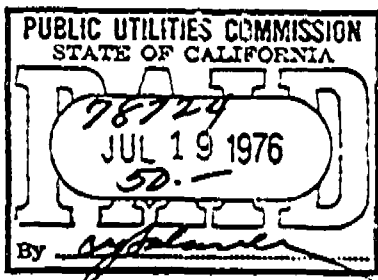
8. P & W Service, Inc. shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

9. P & W Service, Inc. 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 April 30 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.

10. P & W Service, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant corporation elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. This order shall become effective when P & W Service, Inc. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 19th day
of JULY, 1976.



~~W. H. Storer~~
President
William Lyndon J.
Verano R. Stinger

Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.

P & W Service, Inc., a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate 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, Marin, Napa, Sacramento, San Francisco, San Joaquin, Santa Clara, Solano, Stanislaus, and Yolo, subject to the following restrictions:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of 1 year.
2. Whenever P & W Service, Inc. engages other carriers for the transportation of the property of Yolland Materials Co., or customers or suppliers of said company, P & W Service, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in tariffs of P & W Service, Inc. on file with the Commission.

Issued by California Public Utilities Commission

Decision 86129, Application 56560.