

ORIGINAL

Decision No. ~~-86466-~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Trustee in Bank- )  
 ruptcy of FWS DEVELOPMENT CO., )  
 INC., for authority to transfer, )  
 and of CALIFORNIA AND WESTERN )  
 STATES AMMONIA TRANSPORT, INC., )  
 a corporation dba CALIFORNIA )  
 AMMONIA TRANSPORT, to acquire a )  
 cement carrier certificate . )

Application No. 56542  
 (Filed June 8, 1976)

OPINION

By this application, California and Western States Ammonia Transport, Inc., a California corporation, (transferee) requests authority to acquire a certificate of public convenience and necessity authorizing operations as a cement carrier to and within all points and places in the Counties of San Bernardino and San Diego. The certificate was granted by Decision 81408, dated May 22, 1973, in Application 53804 to FWS Development Co., Inc.

The United States District Court for the District of Arizona in Bankruptcy No. B-76-51-TUC issued its order, dated April 12, 1976, confirming the arrangement for the sale of the certificate by the Trustee in Bankruptcy to Bulk Transportation, a corporation, for a consideration of \$600. Said corporation presently holds a cement carrier certificate which duplicates the authority to be transferred and desires that the certificate, to be purchased from FWS Development Co., Inc., the bankrupt, be transferred to California and Western States Ammonia Transport, Inc., a wholly owned subsidiary of Bulk Transportation.

Transferee presently holds permitted operating authority issued by this Commission. It will be required to adopt the tariffs of the bankrupt published by Western Motor Tariff Bureau, Inc., Agent, which set forth the rates and rules governing the cement carrier operations subject to the certificate to be transferred.

The transferee has requested relief from the provisions of the Commission's Rules of Practice and Procedure which require that copies of the application be widely disseminated. A copy of the application was mailed to the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of June 10, 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 certificate presently held by FWS Development Co., Inc., and the issuance of a certificate in appendix form to California and Western States Ammonia Transport, Inc. The certificate will include an alter ego restriction to reflect the affiliation between transferee and Bulk Transportation.

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

Transferee 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 February 1, 1977, Jim D. Smith, Trustee in Bankruptcy in the estate of FWS Development Co., Inc., may sell and transfer the operative rights referred to in the application to California and Western States Ammonia Transport, Inc., a California 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 bill of sale or other 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 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, a certificate of public convenience and necessity is granted to California and Western States Ammonia Transport, Inc., a California corporation, 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 by Decision 81408 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. 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 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.

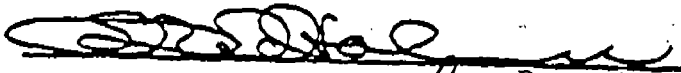
8. Transferee shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Transferee is granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

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

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Dated at San Francisco, California, this 5<sup>th</sup> day of  
October, 1976.

  
President

William J. Lyons

Vernon L. Stuegem

Clay

Robert Batwood  
Commissioners

CALIFORNIA AND WESTERN STATES  
AMMONIA TRANSPORT, INC.  
(a California corporation)  
doing business as  
CALIFORNIA AMMONIA TRANSPORT

California and Western States Ammonia Transport, 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 San Bernardino and San Diego, subject to the following restrictions:

Whenever California and Western States Ammonia Transport, Inc., engages other carriers for the transportation of property of California and Western States Ammonia Transport, Inc. or Bulk Transportation or customers or suppliers of said corporations, California and Western States Ammonia Transport, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in California and Western States Ammonia Transport, Inc.'s tariffs on file with this Commission.

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.

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