

Decision No. 86695

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica- )  
 tion of HOLIDAY TRANSPORTA- )  
 TION, a California corpora- )  
 tion, to sell and transfer a )  
 certificate of public )  
 convenience and necessity to )  
 transport cement to points in )  
 Shasta County, to RICHARD )  
 ROWAN and BURL SOUSA, part- )  
 ners, doing business as a )  
 partnership under the name of )  
 SOUSA READY MIX. )

Application No. 56708  
 (Filed August 24, 1976)

O P I N I O N

Holiday Transportation, a California corporation, (seller) requests authority to sell and transfer and Richard Rowan and Burl Sousa, co-partners, doing business as Sousa Ready Mix (purchasers) request authority to purchase and acquire a portion of a cement carrier certificate of public convenience and necessity.

The certificate was granted by Decision 86007, dated October 15, 1975, in Application 55908 and authorizes transportation from any and all points and places to all points and places within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Shasta and Ventura. The portion to be sold and transferred involves only the County of Shasta.

Purchasers do not presently hold operating authority issued by this Commission. Their unaudited balance sheet of June 30, 1976, shows partnership net worth of \$30,176.14. They will operate one tractor and two trailers under the certificate authority to be transferred.

Pursuant to the Agreement entered into by applicants on August 12, 1976, consideration for the sale is \$1,000 payable in cash upon consummation.

Seller is party to Western Motor Tariff Bureau, Inc., Agent which purchasers propose to adopt.

Applicant seller has submitted copies of shipping documents evidencing operations during the last year under the authority subject to the 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. 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 August 25, 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 Holiday Transportation and the issuance of certificates in appendix form to Holiday Transportation and Richard Rowan and Burl Sousa, co-partners. The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Purchasers 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 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 April 1, 1977, Holiday Transportation, a California corporation, may sell and transfer the operative rights referred to in the application to Richard Rowan and Burl Sousa, co-partners.

2. Within thirty days after the transfer applicants shall file with the Commission written acceptance of the certificates and Richard Rowan and Burl Sousa shall file 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 the General Order 117-Series may result in 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 Richard Rowan and Burl Sousa, co-partners, and Holiday Transportation, a California corporation, 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, respectively, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted to the seller by Decision 86007 is 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 the insurance requirements of the Commission'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 April 30 of each year, an annual report 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 shipments. If they 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 San Francisco, California, this 30<sup>th</sup> day of November, 1976.

President  
William J. ...  
...  
...  
...  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Richard Rowan and Burl Sousa, co-partners, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to conduct operations as a cement carrier as defined in Section 214.1 of the Public Utilities Code to and within the County of Shasta from any and all points of origin. (See Restrictions).

## RESTRICTIONS:

1. Whenever the co-partnership of Richard Rowan and Burl Sousa engages other carriers for the transportation of property of the co-partnership of Richard Rowan and Burl Sousa or Richard Rowan, an individual, or Burl Sousa, an individual or Sousa Ready Mix, or customers or suppliers of such co-partnership or individuals, Richard Rowan and Burl Sousa shall not pay such other carriers rates and charges less than the rates and charges published in the tariffs of Richard Rowan and Burl Sousa, a co-partnership, on file with the Commission for the transportation actually performed by such other carriers.
2. 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. 86695, Application No. 56708.

Holiday Transportation, 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 to and within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura from any and all points of origin. (See Restrictions).

- RESTRICTIONS:
1. Whenever Holiday Transportation engages other carriers for the transportation of property of Bonanza Concrete, a corporation, RWH, Inc., a corporation, or customers or suppliers of said corporations, Holiday Transportation shall pay such other carriers not less than the rates and charges published in the Holiday Transportation tariffs on file with this Commission.
  2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

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