

ORIGINAL

Decision No. ~~87097~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
tion of MOROSA BROS. TRANSPORTA-)
TION CO., a corporation to sell)
and transfer a certificate of)
public convenience and necessity)
authorizing the transportation)
of cement to B.C.B.M. TRANSPORT,)
INC., a corporation.)

Application No. 56972
(Filed December 30, 1976)

OPINION

By this application, Morosa Bros. Transportation Co., a California corporation, (seller) requests authority to sell and transfer and B.C.B.M. Transport, Inc., a California corporation, (purchaser) seeks authority to purchase and acquire a portion of a cement carrier certificate of public convenience and necessity. The certificate was granted by Decision 78034, dated December 8, 1970, in Application 52219 and authorizes transportation to and within all points and places in various counties in this State, including the County of Sacramento.

Purchaser presently operates as a cement carrier to and within the Counties of Alameda, Contra Costa, San Mateo and Santa Clara under a certificate of public convenience and necessity issued by Decision 85977, dated June 22, 1976, in Applications 56324 and 56358. Purchaser proposes to acquire operating rights for the County of Sacramento from seller.

Pursuant to the agreement of November 13, 1976, between the parties, consideration for the sale and transfer is \$1,000 payable in cash. Purchaser's balance sheet of September 30, 1976, shows net worth of \$74,296. Seller participates in Western Motor Tariff Bureau, Inc., Agent, freight tariffs which purchaser proposes to adopt. The application has been served on various parties including carriers, shippers and others. No protests to the application have been received. The applicants have submitted a copy

of a shipping document evidencing operations during the last year under the certificated authority involved in the transfer.

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 certificates presently held by Morosa Bros. Transportation Co., and B.C.B.M Transport, Inc. and the issuance of certificates in appendix form to the parties herein.

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 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 the value of the rights to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before June 1, 1977, Morosa Bros. Transportation, Co., a California corporation, may sell and transfer the operative rights referred to in the application to B.C.B.M. Transport, Inc., a California corporation.
2. Within thirty days after the transfer the applicants shall file with the Commission written acceptance of the certificates and the purchaser 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 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 provisions of the Commission's General Order 117-Series. Failure to comply with the provisions of 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 Morosa Bros. Transportation Co., a California corporation, and to B.C.B.M. Transport, Inc., 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 attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted to the applicants herein by Decisions 78034 and 85977 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants are placed on notice that if they accept the certificates they will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, and 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

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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 applicants elect not to transport collect on delivery shipments, they 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 15th day of March, 1977.

Robert B. Berman
President
William J. Sullivan, Jr.
Samuel L. Sturgeon
Robert L. ...
Richard D. ...
Commissioners

Morosa Bros. Transportation Co., a corporation, 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 to any and all points within the Counties of Alameda, Butte, Contra Costa, Fresno, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Mono, Monterey, Orange, Placer, Riverside, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yolo from any and all points of origin 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 No. 87097, Application No. 56972.

B.C.B.M. Transport, Inc., a corporation, 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, to any and all points within the Counties of Alameda, Contra Costa, Sacramento, San Mateo and Santa Clara from any and all points of origin, subject to the following restrictions:

Restrictions:

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

Whenever B.C.B.M. Transport, Inc. engages other carriers for transportation of property of Bay Cities Building Materials Co., Inc., or customer or suppliers of said corporation, B.C.B.M. Transport, Inc., shall pay such other carriers not less than the rates and charges published in B.C.B.M. Transport, Inc.'s., tariffs on file with this Commission.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision 87097, Application 56972.