

ORIGINAL

Decision No. 87352

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of HUMBLE TRANSPORT CO., a cor-)
poration, to acquire, and J-M)
CEMENT CARRIERS, INC., a corpora-)
tion, to transfer a cement carrier)
certificate of Public Convenience)
and Necessity, pursuant to Section)
851-854 of the California Public)
Utilities Code.)

Application No. 57145
(Filed March 11, 1977)

O P I N I O N

By this application J-M Cement Carriers, Inc., a California corporation (transferor) requests authority to transfer and Humble Transport Co., a California corporation (transferee) seeks authority to acquire a cement carrier certificate of public convenience and necessity. The certificate was granted by Decision 85960 dated June 15, 1975 in Application 56410 and authorizes transportation to all points and places in the counties of Contra Costa, Fresno, Imperial, Kern, Los Angeles, Marin, Merced, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, Santa Barbara, Sonoma, and Ventura.

Transferee is presently engaged in the business of the transportation of rock and sand products pursuant to a permit issued by this Commission. It proposes to expand its operations to include the transportation of cement for others as well as itself.

Pursuant to the agreement of February 8, 1977 between the parties, consideration for the certificate is \$11,500 and an additional \$30,000 will be paid for certain highway equipment as described in Appendix A of Exhibit B of the application. The total price of \$41,500.00 is payable on or before the consummation of the

agreement. Transferee's balance sheet dated February 28, 1977 shows net worth of \$52,696. Transferor participates in Western Motor Tariff Bureau, Inc., Agent, freight tariffs which transferee proposes to adopt.

The 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. Notice of the filing of the application appeared in the Commission's Daily Calendar of March 15, 1977. No protests to the application have been received. The applicants have submitted copies of shipping documents evidencing operations during the past 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 certificate presently held by J-M Cement Carriers, Inc. and the issuance in appendix form of a cement carrier certificate to Humble Transport Co., a California corporation.

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 cancelled 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 rights and equipment to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before September 30, 1977, J-M Cement Carriers, Inc., a California corporation, may sell and transfer the operative rights referred to in the application to Humble Transport Co., a California corporation.

2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificate and shall file 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 Humble Transport Co. 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 85960 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. 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. The applicants are 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.

Dated at San Francisco, California, this 14th day of May, 1977.

Robert B. Brown

President

William S. ...

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Commissioners

Humble Transport Co., a California 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 Contra Costa, Fresno, Imperial, Kern, Los Angeles, Marin, Merced, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, Santa Barbara, Sonoma and Ventura, from any and all points of origin subject to the following restrictions.

1. Whenever Humble Transport Co., a California corporation, engages other carriers for the transportation of property of Humble Transport Co. a corporation, or David L. Horowity, an individual or customers or suppliers of said corporation or individual, Humble Transport Co., a corporation, shall not pay such other carriers rates and charges less than the rates and charges published in Humble Transport Co.'s tariffs 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 87352, Application 57145.