

ORIGINAL

Decision No. 87360

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of (a) HARRIS TRANSPORTATION CO.,)
 a corporation, to acquire and of)
 RALPH L. HARRIS, FLORENCE L.)
 HARRIS, GLENN M. HARRIS and)
 ROBERTA S. HARRIS, co-partners,)
 doing business as HARRIS TRANS-)
 PORTATION COMPANY, to transfer)
 a certificate of public convenience)
 and necessity for the)
 transportation of general commodities,)
 as a highway common carrier,)
 between points in the)
 Los Angeles Basin Territory,)
 and a cement certificate)
 authorizing service to all)
 points in various counties in)
 California, (b) HARRIS TRANSPORTATION)
 CO., a corporation,)
 to issue shares of its common)
 capital stock.)

Application No. 57079
 (Filed February 14, 1977)

O P I N I O N

Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, co-partners, (transferors), doing business as Harris Transportation Company, seek authority to sell and transfer their highway common carrier and cement carrier certificates of public convenience and necessity and related assets to Harris Transportation Co., a California corporation (transferee). Harris Transportation Co. requests authority to purchase and acquire such certificates and assets and to issue capital stock.

The highway common carrier certificate was granted by Decision 62906 dated December 5, 1961 in Application 43164 and was acquired by the transferors pursuant to Decision 75143 dated December 20, 1968 in Application 50724. It authorizes the transportation of general commodities between all points and places in Los Angeles Basin Territory. Transferors are the holder of a co-extensive Certificate of Registration issued by the Interstate

Commerce Commission in their Docket MC 121300 Sub No. 1. Trans-ferers also operate pursuant to highway carrier permits issued by this Commission. The cement carrier certificate was granted by Decision 79745 dated February 23, 1972 in Application 53029 and authorizes the transportation of cement from any and all points of origin to and within 20 counties. X
Y

Transferee was incorporated on September 29, 1975 and is authorized by its Articles of Incorporation to issue a total of 20,000 no par value shares of stock consisting of 10,000 preferred shares and 10,000 common shares. No shares of stock are presently issued or outstanding and by this application the Corporation seeks authority to issue 2500 shares of common stock at a price of \$100 per share to Ralph L. Harris and Florence L. Harris, husband and wife, as community property, and 2500 shares of common stock at a price of \$100 per share to Glen M. Harris and Roberta S. Harris, husband and wife, as community property. The total of 5000 shares will be issued in consideration of the sale and transfer to the Corporation of a portion of the assets of the Partnership which had a total book value of \$664,676.00 as of October 30, 1976, subject to described liabilities as of the same date of \$164,676.00. All of the customer accounts receivable as well as \$37,318.00 in cash will be retained by the Partnership and are not part of this transaction. If additional funds are required to assure adequate working capital the present partners and future shareholders stand ready to make such advances as may be necessary.

All of the equipment, as set forth in Exhibit D of the Application, to be acquired by the corporation, is free and clear of all liens and encumbrances as are all the other assets of the Partnership which are to be acquired by the Corporation.

Transferee proposes to continue the operations as presently conducted by the transferors under the corporate name of Harris Transportation Co.

Transferors are parties to Western Motor Tariff Bureau, Inc., Agent, tariff publications for highway common carrier and cement carrier operations. Transferee proposes to adopt the tariffs.

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. Copies of the application have been mailed to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of February 16, 1977. No protests to the application have been received.

After consideration, the Commission finds:

1. The requested deviation from its Rules of Practice and Procedure should be authorized.
2. The proposed sale and transfer of the operating rights and property would not be adverse to the California public interest.
3. The proposed stock issue is for proper purposes. The money, property, or labor to be procured or paid by the issue of the stock authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the capital stock of Harris Transportation Co. or the certificates of public convenience and necessity and equipment to be transferred. Such action shall also not be indicative of a conclusion by the Commission the holding of one party of not more than 50% of the outstanding stock of a corporation constitutes control of the corporation.

The order which follows will provide for, in the event the transfer is completed, the revocation of the highway common carrier and cement carrier certificates held by Ralph L. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris, co-partners, doing business as Harris Transportation Company and the issuance of certificates in appendix form to Harris Transportation Co.

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 to 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.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1977, Ralph H. Harris, Florence L. Harris, Glenn M. Harris and Roberta S. Harris may sell and transfer the operative rights and related assets referred to in the application to Harris Transportation Co., a California corporation.
2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificates 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 highway common carrier and cement 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 Orders 80 and 117-Series. Failure to comply with the provisions of General Orders 80 and 117-Series may result in a cancellation of the operating authorities 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 Harris Transportation Co. authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, and as a cement carrier as defined in Section 214.1 of the Public Utilities Code between the points set forth in Appendix B, both appendices attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decision 62906 and Decision 79745 are 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 each year file with the Commission, an annual report of its operations in such forms, content, number of copies and on such dates 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.

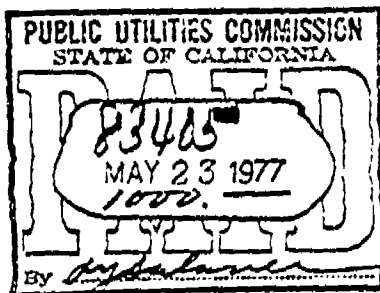
9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

10. Harris Transportation Co., on or after the effective date hereof and on or before December 31, 1977, for the purpose specified in this proceeding, may issue not exceeding a total of 5000 shares of its common stock without nominal or par value at an issue price of \$100 per share to Ralph L. Harris and Florence L. Harris, husband and wife, as community property, and to Glenn M. Harris and Roberta S. Harris, husband and wife, as community property, each combination of husband and wife to receive 2500 shares.

11. Harris Transportation Co., shall file with the Commission a report, or reports, as required by General Order 24-B, which order, insofar as applicable, is hereby made a part of this order.

12. This order shall become effective when Harris Transportation Co. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$1,000.

Dated at San Francisco, California, this 17th day of MAY, 1977. X



Robert B. Berman
President
William G. Gerson
Verdon L. L. L. L.
Charles D. D. D.

Commissioners

Harris Transportation Co., a California corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

Between all points and places in Los Angeles Basin Territory as described in Note A hereof:

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.

Issued by California Public Utilities Commission.

Decision 87360, Application 57079.

Harris Transportation Co., 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 from any and all points of origin to all points and places in the following counties subject to the following restriction:

Fresno
Imperial
Inyo
Kern
Kings
Lake
Los Angeles

Mono
Napa
Orange
Riverside
San Bernardino
San Diego
San Joaquin

San Luis Obispo
Santa Barbara
Solano
Tulare
Ventura
Yolo

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

(END OF APPENDIX B)

4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and

Issued by California Public Utilities Commission.

Decision 87360, Application 57079.

San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 87360, Application 57079.