

ORIGINAL

Decision No. ~~58000~~ NOV 8 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(a) Application of FRANK E. HICKS)
 dba FRANK E. HICKS TRUCKING AND)
 FRANK E. HICKS TRUCKING, INC. to)
 transfer certificate of public)
 convenience and necessity,)
 pursuant to Section 1063 of the)
 Public Utilities Code)
 (b) FRANK E. HICKS TRUCKING, INC.)
 to issue stock pursuant to)
 Section 816-830 of the Public)
 Utilities Code)

Application No. 57507
 (Filed August 10, 1977)

O P I N I O N

Frank E. Hicks an individual (seller) doing business as Frank E. Hicks Trucking, seeks authority to sell and transfer his cement carrier certificate and operating equipment and Frank E. Hicks Trucking, Inc., a California corporation, (purchaser) requests authority to acquire said certificate and operating equipment and to issue capital stock. Seller desires to incorporate his business.

The certificate was acquired by Decision 79858 dated March 28, 1972 in Application 53156. It authorizes transportation from any and all points of origin to all points within the Counties of Contra Costa, El Dorado, Sacramento and San Francisco. Seller also holds highway carrier permits which are the subject of a separate application to transfer to the purchaser.

Purchaser proposes to issue to Frank E. Hicks and Ona Sue Hicks, as joint tenants, not to exceed 240 shares of its no par value capital stock. Said stock is to be issued as consideration for the assumption by the purchaser of the net worth of the seller. As is indicated in Exhibit 3 of the application, the beginning balance sheet account for the purchaser indicates a net worth of \$24,092.

Seller participates in Western Motor Tariff Bureau, Inc., Agent freight tariffs which purchaser proposes to adopt. Seller has submitted copies of shipping documents evidencing operations during the past year under the certificate to be transferred.

Applicants request relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure which requires wide dissemination of the application. Notice of the filing of the application appeared in the Commission's Daily Calendar of August 12, 1977. No protests to the application have been received.

The Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issuance is for a proper purpose.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purpose specified herein, which purpose is 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 Frank E. Hicks Trucking, Inc., or the certificate of public convenience and necessity, equipment, or operating property to be transferred.

The order which follows will provide for in the event the transfer is completed, the revocation of the certificate presently held by Frank E. Hicks, an individual, and the issuance of a certificate in appendix form to Frank E. Hicks Trucking, Inc., a California corporation.

Purchaser 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 granting 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.

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1978, Frank E. Hicks, an individual, may sell and transfer the operative rights and equipment referred to in the application to Frank E. Hicks Trucking, Inc., a California corporation.
2. Within thirty days after the transfer, the purchaser 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. Purchaser 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 Frank E. Hicks Trucking, Inc., 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 acquired by Decision 79858 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchaser 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. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate filings as prescribed by the General Order.

9. The applicants are granted a deviation from Rule 37 of the Commission's Rules of Practice and Procedure to the extent requested in the application.

10. Frank E. Hicks Trucking, Inc., on or after the effective date hereof and on or before July 1, 1978, for the purposes specified in this proceeding may issue not exceeding a total of 240 shares of its "no par value" common stock to Frank E. Hicks and Ona Sue Hicks, as joint tenants.

11. Frank E. Hicks Trucking, Inc., shall file with the Commission a report or reports as required by General Order 24B, which order, insofar as applicable, is hereby made a part of this order.

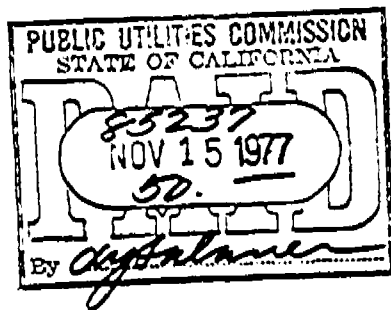
12. The authority granted in this order to issue stock will become effective when Frank E. Hicks Trucking, Inc. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

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Dated at San Francisco, California, this 8th
day of NOVEMBER, 1977.

Robert B. Higgins
President
William S. Quinn J.
Joseph L. Stinson
Michael D. Conroy

Commissioners



Commissioner Claire F. Bedrick, being necessarily absent, did not participate in the disposition of this proceeding.

Frank E. Hicks Trucking, Inc., 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, from any and all points of origin to any and all points in the Counties of:

Contra Costa

Sacramento

El Dorado

San Francisco

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 88039, Application 57507.