

ORIGINAL

Decision No. ~~88445~~ JAN 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

Raviscioni Trucking Inc., a)
California corporation, to)
transfer, and Talley Transpor-)
tation, a California corporation,)
to acquire, a cement carrier)
certificate authorizing service)
to and within the County of)
Madera.)

Application No. 57599
(Filed September 30, 1977)

O P I N I O N

By their joint application, Raviscioni Trucking, Inc., a California corporation (seller), seeks authority to sell and transfer and Talley Transportation, a California corporation (purchaser), requests authority to purchase and acquire a cement carrier certificate of public convenience and necessity. The certificate, which was granted to seller by Commission Resolution No. 13825 (Sub. No. 25) dated January 23, 1964, authorizes the transportation of cement from any and all California points of origin to all points and places located within the County of Madera. Seller also possesses certain permit carrier authorities issued to it by this Commission in File T-65,431.

Talley Transportation, the prospective purchaser, is a highway carrier having been engaged in the for-hire transportation business in California since 1946 as a highway permit carrier pursuant to various operating permits issued to it by this Commission in File T-88,829.

In justification of the proposal herein, seller declares that its corporate officers have decided to terminate the company's trucking operations and are disposing of its highway transportation equipment. In this regard, seller has recently sold its radial and livestock carrier permits to other carriers. While it was

formerly actively engaged in providing transportation services under its cement certificate, seller now desires to sell said authority to the purchaser for the sum of \$1,200, payable in cash upon consummation of the transfer. The terms of the sale, according to applicants, are oral as no written agreement now exists between the parties involved.

Applicants jointly allege that the proposed transfer of the certificate involved will be in the public interest for the following reasons:

(a) It will preserve the competitive relationship which now exists between all cement carriers by maintaining the present number of carriers that are available to serve the shipping public;

(b) The purchasing carrier is highly experienced in all aspects of the transportation of property. It owns an extensive fleet of trucking equipment of which three 2-axle tractors and three sets of trailers will be utilized in providing transportation services for the shipping public under the cement certificate it seeks to acquire;

(c) Approval of the proposed transfer will not have any adverse effect on either the public generally or on any other competing carrier; and

(d) There will be no change in the cement rates now being assessed the shipping public for such transportation.

Attached to the application, as Exhibit "A", is purchaser's balance sheet dated June 30, 1977 which shows total assets of \$358,251, liabilities totaling \$274,639 and total stockholders' equity of \$83,612. Seller's operating income statement (Exhibit "D"), taken from its annual report to the Commission for the calendar year 1976, indicates a net loss of \$4,405 from all of its trucking operations.

Seller participates in tariffs published by Western Motor Tariff Bureau, Inc., Agent, covering shipments transported under the certificate involved herein. Purchaser proposes to adopt those

same tariffs. Seller submitted a copy of one of its freight bills (Exhibit "B") issued during the past year as proof of cement transportation having been performed under its certificate.

The applicants request a waiver from the provisions of the Commission's Rules of Practice and Procedure which require that copies of such applications be widely disseminated. Copies of the application were mailed to both the northern and southern offices of the California Trucking Association. Notice of the filing of the application appeared on the Commission's Daily Calendar of October 3, 1977. No protest to the application has been received.

After consideration, the Commission finds that the proposed sale and transfer of the certificate involved 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 currently held by Raviscioni Trucking, Inc., and the issuance of a cement carrier certificate, in appendix form, to Talley Transportation.

Talley Transportation 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 the rights to be transferred.

O R D E R

1. On or before July 1, 1978, Raviscioni Trucking, Inc., a corporation, may sell and transfer the operating rights referred to in the application to Talley Transportation, a corporation.

2. Within thirty days after the transfer, the purchaser shall file with the Commission a written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer indicating the purchase price of the certificate and the date of consummation of the sale and transfer thereof.

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, such 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 date of 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 Talley Transportation 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 of this decision.

5. The certificate of public convenience and necessity granted by Commission Resolution No. 13825 (Sub. No. 25) 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 the 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 it elects not to transport collect on delivery shipments, then 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 Diego, California, this 31st day of JANUARY, 1978.

Robert Bateman

President

William Lyons, Jr.

Robert D. Howell

Clare T. Hild

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Talley Transportation, a corporation, by the certificate of public convenience and necessity granted to it 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 all points and places located within the County of Madera. (See Restriction)

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 88445, Application 57599.