

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lang Transportation)
 Corporation, a corporation, and)
 Hartwick & Hand, Inc., (sic) a)
 corporation, for the sale, pur-)
 chase, and transfer of portion of)
 cement common carrier certificate.)

Application No. 57716
 (Filed November 30, 1977)

O P I N I O N

Lang Transportation Corporation (seller), a California corporation, requests authority to sell and transfer and Hartwick and Hand, Inc., (purchaser) a California corporation, seeks authority to purchase and acquire a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

Seller's certificate was granted by Decision 82086, dated November 7, 1973 in Application 54307 and authorizes transportation as a cement carrier to and within numerous counties in this State. The application for transfer concerns only the County of Imperial.

Purchaser presently operates under a cement certificate granted by Decision 79638 dated January 25, 1972 in Application 52789 which authorizes transportation from any and all points of origin to all points and places within the Counties of Fresno, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Diego and Ventura; and from any and all points of origin within the County of San Bernardino to all points and places in the County of San Joaquin. It also operates under highway carrier permits issued by this Commission.

Pursuant to the Purchase and Sale Agreement between the parties (Appendix "A" to the application), consideration for the sale and transfer is \$2,000 payable upon consummation of the transaction.

Purchaser's balance sheet of September 30, 1976 shows a net worth of almost \$168,000. It operates numerous units of highway equipment which are available to perform the services described in Appendix "C" of the application.

A. 57716 - CAS/DDM

The applicants have submitted a copy of a shipping document which evidences operations under seller's certificate during the past year. Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariffs which cover operations under its cement certificate. Purchaser proposes to adopt such tariffs.

The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. A copy of the application has been sent to the California Trucking Association and to the principal cement manufacturers in this State. Notice of the application was made in the Commission's Daily Calendar of December 2, 1977. No protest to the application has been received.

The Commission finds that the deviation from its Rules of Practice and Procedure should be authorized; that the proposed transfer 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 certificates presently held by Lang Transportation Corporation and by Hartwick and Hand, Inc.; and the issuance of certificates, in appendix form, to Lang Transportation Corporation and to Hartwick and Hand, Inc. The authorization granted shall not be construed as a finding of the value of the right authorized to be transferred.

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 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, Lang Transportation Corporation, a California corporation, may sell and transfer the operative right to serve the County of Imperial, as referred to in the application, to Hartwick and Hand, Inc., a California corporation.
2. Within thirty days after the transfer, applicants shall file with the Commission a written acceptance of their respective certificates and Hartwick and Hand, Inc., shall file a true copy of the bill of sale or other instrument of transfer involved herein.
3. Purchaser 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 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 shall comply with 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 Lang Transportation Corporation and to Hartwick and Hand, Inc., authorizing each of them to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A and B, of this decision.
5. The certificates of public convenience and necessity granted by Decisions 82086 and 79638 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.
6. Applicants 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. Applicants shall each 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 April 30 of each year, an annual report of their individual 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 they elect not to transport collect on delivery shipments, they each shall make the appropriate tariff filings as required by the General Order.

9. 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 thirty days after the date hereof.

Dated at San Francisco, California, this 7th day of February, 1978.

Robert Batimich
President
William Lyons Jr.
Vernon L. Sturgeon
Richard D. Howell
Clair J. DeBick
Commissioners

Lang Transportation 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 all points and places within the Counties of:

Fresno
Inyo
Kern
Kings
Los Angeles
Merced

Monterey
Orange
Riverside
Sacramento
San Bernardino
San Diego

San Joaquin
San Luis Obispo
Santa Barbara
Santa Clara
Ventura and
Yolo

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 the California Public Utilities Commission.

Decision 88498, Application 57716.

Hartwick and Hand, Inc., 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 all points and places in the Counties of Fresno, Imperial, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Diego and Ventura, and from any and all points of origin within the County of San Bernardino to all points and places in the County of San Joaquin, subject to the following 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 B)

Issued by the California Public Utilities Commission.

Decision 88498, Application 57716.