

Decision No. 89033 JUN 27 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

LANG TRANSPORTATION CORPORATION,)
a corporation, to sell, and of)
RICHARD N. LADEIRA, an individual)
doing business as RICH N. LADEIRA)
TRUCKING, to purchase cement car-)
rier certificates authorizing ser-)
vice to and within the Counties of)
Merced, Monterey, Sacramento, San)
Joaquin, Santa Clara, and Yolo,)
State of California, pursuant to)
Sections 851-853 of the California)
Public Utilities Code.)

Application No. 57951
(Filed March 27, 1978)

O P I N I O N

Lang Transportation Corporation, a California corporation, (seller), seeks authority to sell and transfer and Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking (purchaser), seeks authority to purchase and acquire that portion of a cement carrier certificate of public convenience and necessity, authorizing operations to and between all points in the counties of Merced, Monterey, Sacramento, San Joaquin, Santa Clara and Yolo.

The certificate held by the seller was granted by Decision 88498 dated February 7, 1978 in Application 57716 and authorizes the transportation of cement to and 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.

Purchaser presently operates as a cement carrier to and between all points in Contra Costa County under a certificate granted by Decision 83980 dated January 14, 1975 in Application 55324. He also operates under radial highway common carrier, livestock carrier, and dump truck carrier permits issued under File T-90350.

Pursuant to the Purchase Agreement entered into by the parties on February 5, 1978, the purchase price for the portion of the certificate is \$6,000.00 payable in cash upon consummation of the transaction.

Purchaser's balance sheet of December 31, 1977, filed as Exhibit B to the application, shows a net worth of \$75,779.00. He operates one tractor and two sets of semi and full trailers. Seller and purchaser both participate in Western Motor Tariff Bureau, Agent, tariff publications and purchaser will adopt the rates applicable to transportation of cement to and within the counties of Merced, Monterey, Sacramento, San Joaquin, Santa Clara and Yolo. The applicants have submitted a copy of a shipping document evidencing operations under the certificate during the past year.

Copies of the application were served on the principal cement manufacturers in this State and on the California Trucking Association. The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. Notice of the filing of the application was made in the Commission's Daily Calendar of March 28, 1978. No protests to the application have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it and the requested relief from its Rules of Practice and Procedure 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 Richard N. Ladeira and the issuance of in lieu certificates in appendix form to Richard N. Ladeira doing business as Rich Ladeira Trucking, and Lang Transportation 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 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 granted. The authorization granted shall not be construed as a finding of value of the rights authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Lang Transportation Corporation, a California corporation, may sell and transfer the operative rights referred to in the application to Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking. This authorization shall expire if not exercised by December 31, 1978, or within such additional time as may be authorized by the Commission.

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. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established, as their 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, certificates of public convenience and necessity are granted to Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, and Lang Transportation Corporation authorizing them to operate as cement carriers as defined in Section 214.1 of the Public Utilities Code between the points set forth in Appendices A and B attached hereto

and made a part hereof.

5. The certificates of public convenience and necessity granted by Decisions 88498 and 83980 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchaser shall maintain his 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 his 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, he 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 thirty days after the date hereof.

Dated at San Francisco, California, this
27th day of JUNE, 1978.

William Squous Jr. President
Veron L. Sturgeon
Richard D. Hall
Clair L. Deibel Commissioners

Commissioner Robert Batnovich, being necessarily absent, did not participate in the disposition of this proceeding.

Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, 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 Contra Costa, Merced, Monterey, Sacramento, San Joaquin, Santa Clara and Yolo, subject to the following restrictions:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.
2. Whenever Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, engages other carriers for the transportation of property of Richard N. Ladeira or customers or suppliers of said individual, Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, shall not pay such other carriers rates and charges less than the rates and charges published in Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking's Tariffs on file with this Commission.

(END OF APPENDIX A)

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 in the Counties of Fresno, Inyo, Kern, Kings, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara and Ventura, subject to the following 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 California Public Utilities Commission.
Decision 89033, Application 57951.