

ORIGINAL

Decision No. 90449 JUN 19 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Dorothy Sill Nobles,
 individually and as Trustee of the
 Joseph John Nobles Trust, Gertrude
 Sill, Catherine Haupt, and Claire
 O'Connor, doing business as NOBLES
 TRUCKING COMPANY, to transfer cement
 carrier certificate, and of Dorothy
 Sill Nobles, as Trustee of the
 Joseph John Nobles Trust, Gertrude
 Sill, Claire O'Connor, Warren Haupt,
 and Daniel Sill Nobles as Trustee of
 the Dorothy Nobles Children's Trust
 to receive the transfer of a cement
 carrier certificate.

Application No. 58722
 (Filed March 7, 1979)

O P I N I O N

This application seeks authority to transfer a cement carrier certificate. The transaction here involved is an interfamily one which will not significantly affect the ownership or management of the business.

Copies of the application were served on the California Trucking Association and nine of the major California shippers of cement. There have been no protests to the application. Based upon the verified application and file herein, the Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The certificate of public convenience and necessity to operate as a cement carrier here involved was authorized in Resolution No. 13825, Sub. No. 57, dated June 23, 1964. The certificate authorizes operations in the counties of Fresno, Kern, San Luis Obispo, Santa Barbara, Ventura, Orange, Los Angeles, San Bernardino, and Tulare.

The certificate was initially granted to Dorothy Sill Nobles and her husband, Joseph John Nobles, who conducted their business under the name of Nobles Trucking Company.

3. Upon the death of Joseph John Nobles, Dorothy Sill Nobles entered into a partnership agreement with her mother, Gertrude Sill, and her sisters, Catherine Haupt and Claire O'Connor, to provide for the ownership and operation of Nobles Trucking Company. An appropriate application was filed with the Commission authorizing transfer of the certificate from Dorothy Sill Nobles to the partnership. Each of the partners had a 25 percent interest in the business which was continued under the name of Nobles Trucking Company.

4. Catherine Haupt has agreed to transfer her 25 percent interest in the partnership to her husband, Warren N. Haupt. Dorothy Sill Nobles has agreed to transfer a 12-1/2 percent interest in the partnership to the Dorothy Nobles Children's Trust, of which her son Daniel Sill Nobles is trustee and a 12-1/2 percent interest to the Joseph John Nobles Trust of which she is trustee. This application seeks to have the certificate of public convenience and necessity transferred to reflect the changes of beneficial interest in the partnership which will continue operating the business.

5. If the certificate is transferred in accordance with the aforesaid transfers of beneficial interest the resulting partnership will have the ability, including financial ability, to conduct operations under the certificate.

6. The transfer of the cement carrier authority here under consideration from the existing partnership to the successor partnership would not be adverse to the public interest.

7. To avoid confusion among the shipping public and assist the Commission in the performance of its regulatory functions, the authority authorized to be transferred herein should be restated in an in lieu certificate of public convenience and necessity.

8. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

9. Transferor participates in Western Motor Tariff Bureau, Inc. Agent, tariff publications and the transferee will adopt the rates applicable to the transportation of cement to and within the counties of Fresno, Kern, San Luis Obispo, Santa Barbara, Ventura, Orange, Los Angeles, San Bernardino, and Tulare. Applicants have submitted a copy of a shipping document evidencing operations under the certificate during the past year.

Conclusion of Law

The application should be granted as hereinafter set forth.

Transferees 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 canceled 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. Dorothy Sill Nobles, Gertrude Sill, Catherine Haupt, and Claire O'Connor, a partnership doing business under the name of Nobles Trucking Company, may sell or transfer the operative rights and property referred to in the application to Gertrude Sill, Claire O'Connor, Warren N. Haupt, Dorothy Nobles Children's Trust (Daniel Sill Nobles, Trustee), and Joseph John Nobles Trust (Dorothy Sill Nobles, Trustee), a partnership doing business under the name of Nobles Trucking Company. This authorization shall expire if not exercised by December 31, 1979, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer the transferees 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. Transferees 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 No. 117-Series. Failure to comply with the provisions of General Order No. 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 Gertrude Sill, Claire O'Connor, Warren N. Haupt, Dorothy Nobles Children's Trust (Daniel Sill Nobles, Trustee), and Joseph John Nobles Trust (Dorothy Sill Nobles, Trustee), a partnership doing business under the name of Nobles Trucking Company, authorizing them 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 Resolution No. 13825, Sub. No. 57, dated June 23, 1964, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Transferees shall 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 March 31

of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Transferees shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferees elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 19th day
of JUNE, 1979.

John E. Guyon
President
Henry L. Peterson
Richard W. Crocker
Charles L. Smith
Arnold W. Smith
Commissioners

Appendix A

Dorothy Sill Nobles as Trustee
of the Joseph John Nobles Trust,
Gertrude Sill, Claire O'Connor,
Warren Haupt, and Daniel Sill
Nobles as Trustee of the Dorothy
Nobles Children's Trust, a co-
partnership doing business as
NOBLES TRUCKING COMPANY

Original Page 1

Dorothy Sill Nobles, et al., by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to conduct operations as a cement carrier, as defined in Section 214.1 of the Public Utilities Code to all points and places in the counties of Fresno, Kern, San Luis Obispo, Santa Barbara, Ventura, Orange, Los Angeles, San Bernardino, and Tulare, subject to the following restrictions:

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 90449, Application 58722.