

ORIGINAL

Decision No. 91874 JUN 3 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BARRACLOUGH TRUCKING Inc., a)
California corporation, for authority)
to acquire a certificate of public)
convenience and necessity as a)
cement carrier from SALVADORE)
CANCILLA, an individual doing)
business as GOLDEN'S TRUCKING.)

Application No. 59439
(Filed February 8, 1980)

O P I N I O N

Salvadore Cancilla (seller), an individual doing business as Golden's Trucking, has applied to sell a cement carrier certificate to Barraclough Trucking Inc. (purchaser) for the sum of \$1,000 payable in cash within ten days of the approval of the transfer by this Commission. The authority to be transferred is restricted to independent subhaul operations only, except prime carrier operations are authorized in Contra Costa, San Mateo, Santa Clara, and Sonoma Counties.

The Commission issued a cement contract carrier permit to the seller on August 27, 1970, which included this authority. Said permit was converted to a cement carrier certificate by Commission Resolution No. 18055, GCC No. 19, dated August 28, 1979.

Purchaser has been operating in California under authority of a radial highway common carrier permit. Purchaser's equipment list and financial statement are attached to the application.

Applicants have requested that the requirements of service under Commission Rule No. 21(f) be waived, since the transfer concerns an existing certificate and there will be no adverse effect

on other carriers. A copy of the application with all attachments was mailed to California Trucking Association, and it was noticed on the Commission's Daily Calendar. No protests have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be granted. The requirements of Rule 21(f) are waived and 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 presently held by Salvadore Cancilla, doing business as Golden's Trucking, and the issuance of a certificate in appendix form to Barraclough Trucking Inc.

Barraclough Trucking Inc. 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 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. Salvadore Cancilla may sell and transfer the operative rights referred to in the application to Barraclough Trucking Inc.. This authorization shall expire if not exercised by September 1, 1980, 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. 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 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 Barracough 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 of this decision.

5. The certificate of public convenience and necessity granted to Salvadore Cancilla, doing business as Golden's Trucking, by Commission Resolution No. 18055, GCC No. 19, dated August 28, 1979, 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 No. 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 No. 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 tariff filings as required by the General Order.

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

Dated JUN 3 1980, at San Francisco, California.

John E. Bayron
President
Richard W. Trivette
Richard W. Trivette
Commissioners

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

Barracrough Trucking 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 in the following counties, subject to the following restrictions:

State of California: Restricted to independent subhaul operations only

Contra Costa, San Mateo,
Santa Clara and Sonoma: Prime carrier operations

Restrictions:

1. Whenever the cement carrier engages other carriers for the transportation of its own property or the property of its subsidiaries or affiliates or customers or suppliers of the cement carrier, said cement carrier shall not pay the carriers so engaged less than 100% of the rates and charges published in the cement carrier's tariffs on file with the Commission.
2. 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 91874, Application 59439.