

Decision No. 92039 JUL 15 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application )  
of: Richard N. Ladeira Trucking, )  
for a Cement Carrier Certificate )  
authorizing service to and within )  
the Counties of Alameda, )  
El Dorado, Fresno, Lake, Madera, )  
Mariposa, Placer, Plumas, San )  
Benito, San Mateo, Santa Cruz, )  
Sonoma, Stanislaus, and Tuolumne. )

Application No. 59492  
(Filed March 4, 1980)  
(Amended May 5, 1980)

O P I N I O N

Applicant Richard N. Ladeira, an individual doing business as Richard N. Ladeira Trucking, presently operates as a cement carrier pursuant to a certificate of public convenience and necessity granted to him by Decision 89937 dated January 30, 1979 in Application 58494. That certificate authorizes him to transport cement from any and all points of origin to all points in eleven counties as follows: Contra Costa, Marin, Merced, Monterey, Napa, Sacramento, San Francisco, San Joaquin, Santa Clara, Solano and Yolo.

Applicant also holds and operates under a statewide, general commodity, highway common carrier certificate, as well as a highway contract carrier permit, both of which were converted from his former radial carrier permit under the terms of Senate Bill No. 860. In addition, he possesses permit authority as a dump truck carrier, livestock carrier and as an agricultural carrier issued in File T-90,350.

By this application, as amended, applicant now seeks Commission authority to geographically expand his cement carrier operations in order to provide similar transportation service to fourteen additional California counties. The additional counties involved are: Alameda, El Dorado, Fresno, Lake, Madera, Mariposa, Placer, Plumas, San Benito, San Mateo, Santa Cruz, Sonoma, Stanislaus and Tuolumne. Attached to the amended application is a map which indicates the counties that applicant is now authorized to serve as

well as the additional counties proposed herein. The map clearly shows that all of the counties involved, both present and proposed, are geographically contiguous except for Plumas County.

According to applicant, service to the additional counties named above would be made available to customers on a daily "on call" basis. Exhibit "B" attached to the application shows that applicant owns and operates two truck tractors and four sets of trailers (doubles), plus a pickup truck, which equipment would be utilized to perform cement transportation service to the proposed additional counties as well as to those counties now served under his existing operating authority.

The application shows that applicant now participates in bureau tariff rates published on his behalf by Western Motor Tariff Bureau, Inc., Agent. Applicant declares that if the additional authority sought herein is granted, the necessary tariff rates governing such cement transportation would likewise be published in that same bureau's tariffs.

In support of the proposed extension of his operating authority, applicant alleges that:

1. He has had many years of experience in serving the public in the transportation of cement.
2. Numerous requests from cement shippers and other cement carriers have been received requesting his transportation service to, from and between points within the proposed additional fourteen-county area.
3. Applicant's current authority has inhibited the growth and expansion of his cement hauling operations, thus placing an undue burden upon applicant as well as the shipping public desiring to use his transportation services.
4. During the past several years, there has been a substantial increase in both population and industrial growth within the extended area comprising the counties involved in applicant's proposal.
5. There is a lack of certificated cement carrier service to points located within the proposed counties which applicant now seeks authority to serve.

6. His regular shippers frequently have occasion to make shipments of cement which require split deliveries, whereby one or more component parts are destined to be delivered within one or more of the counties proposed to be added to his certificate, but which cannot currently be included as part of a single split delivery shipment. Consequently, applicant's regular shippers are not only deprived of an integrated and complete transportation service for their entire split delivery shipments, but they are also penalized by having to pay higher freight charges for the transportation of such shipments.

Financial statements attached to the application show that, as of December 31, 1979, applicant had assets totaling \$198,500 offset by total liabilities of \$85,076 resulting in a net worth in amount of \$113,424. For the calendar year 1979, applicant's operating revenues totaled \$166,991 less operating expenses of \$110,718 which resulted in a net operating profit, before taxes, of \$56,273.

Applicant also requests authority to deviate from the provisions of Rule 37(a) of the Commission's Rules of Practice and Procedure which require service of such applications upon competing carriers. Applicant asserts that complying with this requirement would involve considerable time and expense, as there are over eighty cement carriers which serve one or more of the fourteen counties involved herein.

Certificates of Service filed by applicant show that copies of the verified application, as amended, were mailed to both offices of the California Trucking Association, as well as to the principal cement producers in the State of California. In addition thereto, notice of the filing of the application and the amendment appeared in the Commission's Daily Calendar of March 4, 1980 and May 5, 1980, respectively. No protest to the granting of the application has been received.

After consideration, the Commission finds that:

1. Applicant has the necessary experience, operating equipment and financial resources to institute and maintain the proposed additional service.

2. Public convenience and necessity require that applicant be authorized to engage in operations as a cement carrier in intra-state commerce as proposed in the application, as amended.

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

4. A public hearing is not necessary.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order, and also that applicant should be granted the requested relief from the provisions of the Commission's Rules of Practice and Procedure. The additional operating authority granted herein will be combined with applicant's existing authority and restated in an in-lieu certificate in appendix form. Applicant's existing certificate will be revoked by the order herein.

Applicant is placed on notice that operating 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 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. A certificate of public convenience and necessity is granted to Richard N. Ladeira, an individual doing business as Richard N. Ladeira Trucking, authorizing him 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.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in cancellation of this authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order 117-Series.
- (e) Applicant 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.

(f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision 89937, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

4. Applicant is 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 JUL 15 1980, at San Francisco, California.

John E. Bryson  
President

Hermon L. Sturgeon

Robert W. Goode

Clive J. DeLoach

Samuel J. Smith  
Commissioners

RICHARD N. LADEIRA  
(an individual)  
doing business as  
RICHARD N. LADEIRA TRUCKING

Richard N. Ladeira, an individual doing business as Richard 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 in the following counties, subject to the following restrictions:

Alameda	Monterey	San Mateo
Contra Costa	Napa	Santa Clara
El Dorado	Placer	Santa Cruz
Fresno	Plumas	Solano
Lake	Sacramento	Sonoma
Madera	San Benito	Stanislaus
Marin	San Francisco	Tuolumne
Mariposa	San Joaquin	Yolo
Merced		

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 Richard 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 Richard N. Ladeira Trucking, shall not pay to such other carriers rates and charges published in Richard N. Ladeira, an individual, doing business as Richard N. Ladeira Trucking's tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 92039, Application 59492, Amd.