

ORIGINAL

Decision No. 92682 FEB 4 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of TERRI TRUCKING, INC. to sell and transfer a certificate of public convenience and necessity authorizing the transportation of cement to AMARAL TRUCKING, INC., a California corporation.

Application No. 60062
(Filed November 5, 1980;
amended November 26, 1980)

O P I N I O N

Terri Trucking, Inc. (Terri) is authorized to operate as a cement carrier to and within the counties of Santa Barbara, Ventura, Los Angeles, Orange, and San Diego from any and all points of origin pursuant to a certificate issued to it by Decision No. 73447 dated December 5, 1967 in Application No. 49578. Amaral Trucking, Inc. (Amaral) is authorized to operate as a cement carrier to and within 30 counties of the State from any and all points of origin pursuant to a certificate issued to it by Decision No. 79002 dated August 10, 1971 in Application No. 52732. The cement carrier certificate held by Amaral includes Santa Barbara County but not the other four counties named in Terri's cement carrier certificate. Each carrier also holds other types of operating authority which are not involved herein.

By this application, as amended, Terri requests authority to sell and transfer its cement carrier certificate to Amaral. Terri has submitted a copy of its Freight Bill No. 690 dated September 30, 1980 to show that it has exercised its cement carrier operating authority within the past year. A copy of the Agreement of Purchase and Sale, which covers certain equipment in addition to the cement carrier certificate, is attached to the application as Exhibit A. The purchase price stated for the operating authority is \$10,000.

The application states as follows: (1) subsequent to obtaining its certificate, Terri has continually operated as a cement carrier; (2) the owner of Terri wishes to retire from the transportation business; (3) Amaral has the necessary financial ability, experience, and equipment to continue the cement carrier service Terri is providing for the public, and should the demand for this service increase, it will obtain any additional facilities and equipment that may be required; (4) if the application is granted, Amaral will make the necessary tariff publications and filings; and (5) the proposed transfer is in the public interest and will have no adverse effect upon the environment.

According to Exhibit B to the application, Amaral had as of December 31, 1979, assets of \$1,282,647, liabilities of \$513,885, and capital of \$768,762, and its net income after taxes for the year 1979 was \$107,941.

The application requests that in the event the requested transfer is granted an in lieu cement carrier certificate be granted to Amaral encompassing the rights it presently holds as well as the rights transferred to it. As pointed out above, Amaral's present cement carrier certificate includes Santa Barbara County which is one of the five counties listed in Terri's cement carrier certificate. Since duplications would be eliminated, the in lieu certificate would include the addition of the remaining four counties of Ventura, Los Angeles, Orange, and San Diego in the transferred certificate to the 30 counties Amaral now has.

The application and the amendment were each served on the California Trucking Association, seven cement manufacturing companies, and nine cement carriers. Notice of the filings of each were listed in the Commission's Daily Calendar. No protests have been filed.

We were advised on January 16, 1981 that the owner of Terri is very ill and unable to continue in business and that Amaral wishes to commence the transferred service as soon as possible. Accordingly, the order herein will be made effective on the date it is issued as this is an emergency situation.

Findings of Fact

1. The proposed transfer will not be adverse to the public interest.
2. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
3. A public hearing is not necessary.
4. The order herein complies with the guidelines set forth in the Commission's energy efficiency plan.

Conclusions of Law

1. The proposed transfer should be authorized as provided in the following order which should be made effective on the date of issue.
2. An in lieu cement carrier certificate should be issued to Amaral combining its present cement carrier authority and the cement carrier authority transferred from Terri with the exception of the duplication of Santa Barbara County in the transferred certificate which should be deleted.

Amaral 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. Terri Trucking, Inc. may sell and transfer the operative rights referred to in the application, as amended, to Amaral Trucking, Inc. This authorization shall expire if not exercised by May 31, 1981, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer 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 Amaral 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 in paragraph 4 of this order shall supersede the cement carrier certificates granted to seller and purchaser by Decisions Nos. 73447 and 79002, respectively, which certificates are revoked 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.

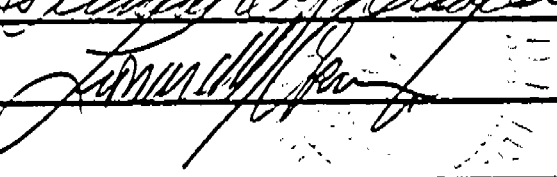
8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

The effective date of this order is the date hereof.

Dated FEB 4 1981, at San Francisco, California.



President




Commissioners

Amaral 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 and places in the following counties:

Alameda	Merced	San Joaquin
Butte	Modoc	San Mateo
Contra Costa	Monterey	Santa Barbara
El Dorado	Napa	Santa Clara
Fresno	Nevada	Santa Cruz
Glenn	Orange	Shasta
Kern	Placer	Solano
Los Angeles	Sacramento	Sonoma
Madera	San Benito	Stanislaus
Marin	San Diego	Tuolumne
Mendocino	San Francisco	Ventura
		Yolo

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 92682, Application 60062.