

ds
Decision No. 68647

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
STANDARD READY MIX SERVICE CORPORATION,
a corporation, of Whittier, for a
certificate to operate as a cement
carrier (Application No. T-54,960,
CMT-G), San Diego County, et al.,
(File No. T-54,960).

Application No. 46382

SUPPLEMENTAL ORDER

By Resolution No. 13823, Sub. 27, dated June 23, 1964, Standard Ready Mix Service Corporation was granted a certificate of public convenience and necessity to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to and within Kern, Los Angeles, Orange and Riverside Counties. Said certificate was issued pursuant to the so-called "grandfather" provisions of Section 1063 of the Public Utilities Code.

On August 3, 1964, applicant filed a petition for rehearing, on the ground that Application No. 46382 also contained documentary support for the inclusion in the aforesaid certificate of transportation to and within San Bernardino, San Diego and Ventura Counties. By its order dated October 6, 1964, the Commission granted rehearing.

Upon reappraisal of the documents attached to said application, we find that applicant actually transported cement as a cement carrier in good faith to San Bernardino, San Diego and Ventura Counties within one year prior to June 21, 1963, has

certified under penalty of perjury that it has operated continuously thereafter, and has made timely filings and has satisfied the statutory requirements.

Further, upon the reappraisal of the documents and examination of the applicant's files, it developed that applicant is the alter ego of the following: F. C. Horowitz, Lillian Horowitz, Standard Ready Mix Concrete, Standard Ready Mix Concrete Corporation, Standard Ready Mix Batch Corporation, Standard Ready Mix Concrete Corporation of Orange County, F. C. Horowitz Enterprises, Inc., Dexter L. Godbey Enterprises, Inc., Charles L. Godbey Enterprises, Inc., William H. Godbey Enterprises, Inc., and Canyon Rock Processing Co. Therefore, the operating authority should be restricted to reflect the alter ego entities, including the buying and selling operations of the applicant.

We conclude that applicant should be granted a certificate of public convenience and necessity to operate as a cement carrier to and within San Bernardino, San Diego and Ventura Counties, and that its authority to operate as a cement carrier should be restricted as provided in the following order. A public hearing is not necessary.

Applicant is hereby 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 over a particular route. 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.

IT IS ORDERED that:

1. The certificate of public convenience and necessity granted to applicant by Sub. No. 27 of page 8 of the attachment to Resolution No. 13823 is amended to read as follows:

"27. A-46382, T-54,960, STANDARD READY MIX SERVICE CORPORATION, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura Counties,

Whenever carrier engages other carriers for the transportation of property of F. C. Horowitz or Lillian Horowitz or Standard Ready Mix Concrete or Standard Ready Mix Concrete Corporation or Standard Ready Mix Batch Corporation or Standard Ready Mix Concrete Corporation of Orange County or F. C. Horowitz Enterprises, Inc. or Dexter L. Godbey Enterprises, Inc. or Charles L. Godbey Enterprises, Inc. or William H. Godbey Enterprises, Inc. or Canyon Rock Processing Co. or Standard Ready Mix Service Corporation or customers or suppliers of said individuals, partnership, companies or corporations, carrier shall not pay such carriers less than rates and charges published in the carrier's tariffs on file with this Commission."

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules of the California Highway Patrol, and the insurance requirements of the Commission's General Order No. 100-C. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with the provisions of General Order No. 100-C, may result in a cancellation of the operating authority granted by this decision.

- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized, and 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 service herein authorized.
- (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 No. 117.

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

San Francisco

Dated at _____, California, this 24th day of FEBRUARY, 1965.

Frederick B. Holcomb
President

John E. Mitchell

George E. Trover

Augusta

William W. Bernard
Commissioners