

ORIGINALDecision No. 68708

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 KERN ROCK COMPANY, a corporation, of
 Bakersfield, for a certificate to
 operate as a cement carrier (Applica-
 tion No. T-75,614, CMT-G), Kern
 County, (File No. T-75,614).

Application No. 46385

ORDER RESCINDING DISMISSAL
 AND GRANTING CERTIFICATE

Ex parte Resolution No. 13841, Sub. No. 9, dated June 30, 1964, dismissed this application for a "grandfather" cement carrier certificate to operate to and within Kern County, stating that applicant has "not satisfied the statutory requirements". A petition for reconsideration and rehearing was filed by applicant's attorney. Said petition was granted by Order Granting Rehearing dated September 15, 1964.

Freight Bill No. 1701, attached to the application as proof of operation as a cement carrier during the "grandfather" period, shows applicant as the consignee. It appeared from this that the freight bill covered transportation by applicant for itself and that the transportation was proprietary and not for-hire.

An amendment to the application, also filed by applicant's attorney, states that the truckload of cement covered by Freight Bill No. 1701 was shipped f.o.b. destination; that title remained in the shipper until delivery; and that the shipper paid the transportation charges. A copy of applicant's cash receipt journal for June 28, 1963, which includes an entry for the receipt of payment from the shipper for the transportation charges, is attached to the amendment. Additional documents showing similar information are also attached to the amendment.

Applicant has informed the Commission in writing that it has no objection to a restriction in the certificate which would require it to pay 100 percent of its tariff rate to subhaulers engaged to transport applicant's property.

Based upon the additional information included in the amendment to the application, we find that the transportation covered by Freight Bill No. 1701 was for-hire transportation and that applicant has satisfied the statutory requirements for a "grandfather" cement carrier certificate. The certificate will be granted subject to the restriction in the order herein.

IT IS ORDERED that:

1. The dismissal of Application No. 46385 by Sub. No. 9 of ex parte Resolution No. 13841, dated June 30, 1964, is set aside.
2. Kern Rock Company, a corporation, is granted a certificate of public convenience and necessity to operate as a cement carrier from any and all points of origin to any and all points of destination within Kern County.
3. Whenever applicant engages other carriers for the transportation of property of applicant, or its customers or suppliers, applicant shall not pay such other carriers less than rates and charges published in applicant's tariffs on file with the Commission for the transportation actually performed by such other carriers.
4. Kern Rock Company, a corporation, shall comply with and observe the following service regulations:
 - (a) Applicant is placed on notice that it will be required, among other things, to file annual reports and to comply with and observe the safety rules of the California Highway Patrol and insurance requirements of the Commission's General Order No. 100 series. Failure to file such reports, in such form and at such time

as the Commission may direct, or to comply with and observe the provisions of General Order No. 100 series, may result in a cancellation of the authority granted herein.

- (b) On or before May 1, 1965, applicant shall file tariffs, in triplicate, in the Commission's office, said tariffs to comply with the regulations governing the construction and filing of tariffs set forth in General Order No. 117, and to be made effective not earlier than ten days after the effective date of the authority herein granted, on not less than ten days' notice to the Commission and the public.

The effective date of the authority herein granted shall be ten days after the date hereof.

Dated at San Francisco, California, this 9th day of March, 1965.

Fredrick B. Holcomb
President

Paul E. Mitchell

George E. Grover

Augustus

William W. Bennett
Commissioners