

ORIGINAL

Decision No. 69371

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BAY READY MIX, INC., a corporation,
 by E. S. McFARLAND, Assignee for
 Benefit of Creditors, to sell, and
 of ROLAND F. MASON, an individual
 doing business as VALLEY TRANSPORTATION
 CO., to purchase, a cement
 carrier certificate authorizing
 service to and within the Counties of
 Kern, Riverside and Santa Barbara in
 the State of California, pursuant to
 Sections 851-853 of the California
 Public Utilities Code, and to suspend
 said certificate pending the processing
 of this application.

Application No. 47542
(Filed April 29, 1965)

O P I N I O N

E. S. McFarland, assignee under an assignment for benefit of creditors executed by Bay Ready Mix, Inc., seeks authority to transfer a cement carrier certificate. Bay Ready Mix held a certificate to transport cement into Kern, Riverside and Santa Barbara Counties.

Roland F. Mason holds a cement carrier's certificate authorizing transportation to and within the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura. Both Bay and Mason participate in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21) W. J. Knoell, Issuing Officer. Mason proposes to adopt the tariff of Bay to points within the authority acquired under this order.

The terms of sale are that Mason shall pay \$200 in cash upon authorization being received from this Commission.

There is a deviation from Procedural Rule 28(a) in this application. No financial statement for Bay was annexed to the application. Applicants request a waiver under Rule 78 on the grounds that there has been no operation by Bay since December 22, 1964, and that Bay is insolvent. The waiver is granted.

Mason's financial statements are attached to the application as Exhibit B. They reveal a profitable operation for the year 1964 and a substantial investment by Mason in the business. Exhibit C reveals that Mason has 4 trucks and four full trailers.

The Commission finds that:

1. Roland F. Mason has the financial resources, equipment, personnel and experience to exercise the enlarged authority which will result from a grant of this application.

2. The proposed transfer would not be adverse to the public interest.

3. The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

The Commission concludes that the application should be granted. A public hearing is not necessary.

The Commission notes that both the Bay certificate and Mason's present certificate were granted by resolution. These were No. 13823, Sub. No. 29, in the case of Bay and 13821, Sub. No. 75, in the case of Mason. We will therefore take advantage of this application to restate the resulting certificate in Appendix A form.

Roland F. Mason 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.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1965, Bay Ready Mix, Inc. may sell and transfer, and Roland F. Mason may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Roland F. Mason shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. Roland F. Mason shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that he has adopted or established, as his own, said rates, rules and regulations. 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

consummation of the transfer herein authorized. 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.

4. Concurrently with the effective date of tariff filings required by ordering paragraph 3 hereof, the operative rights granted by Resolutions Nos. 13821 and 13823, Sub. Nos. 75 and 29, dated June 23, 1964, in Applications Nos. 46414 and 46459, respectively, are hereby revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a cement carrier is hereby granted to Roland F. Mason as more particularly set forth in Appendix A attached hereto.

5. In providing service pursuant to the certificate herein granted, applicant shall, within thirty days after the effective date hereof, file a written acceptance of such certificate. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that he will be required, among other things, to file annual reports of his 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 and observe the safety rules, or the provisions of

General Order No. 100-C, may result in a cancellation of the operating authority granted by this decision.

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

Dated at San Francisco, California, this 7th day of JULY, 1965.

Frederick B. Holliday
President

Robert E. Mitchell

George L. Trover

Augustus

William L. Bennett
Commissioners

ds *

Appendix A

ROLAND F. MASON

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Roland F. Mason, an individual, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier to and within the Counties of Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 69371, Application No. 47542.