

ORIGINAL

Decision No. 69847

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of CLARENCE D. FRANDLE, d/b/a
FRANDLE TRUCKING and VALTRUK, INC.,
a corporation, for Authority for
FRANDLE TRUCKING to Transfer to
VALTRUK, INC., and for VALTRUK,
INC. to acquire a Cement Carriers
Certificate.

Application No. 47777
(Filed July 30, 1965)

O P I N I O N

Applicant seller (Frandle) requests authorization to sell pursuant to Public Utilities Code Sections 851 and 1061, et seq., to applicant buyer (Valtruk) a certificate of public convenience and necessity to operate as a cement carrier to and within the County of Los Angeles from any and all points of origin. The consideration for such sale is the purchase by Valtruk from Frandle of a certain International Truck and Trailer for the sum of \$9,000 and the payment of all costs, including attorney's fees, in connection with the filing of this application.

Frandle presently operates pursuant to a certificate of public convenience and necessity as a cement carrier to and within the County of Los Angeles from any and all points of origin; said certificate was granted by Resolution No. 13825, Sub. No. 29, dated June 23, 1964. A balance sheet of Valtruk dated March 31, 1965 indicates a net worth of \$9,744.72. An equipment list of Valtruk as of the filing date of the application indicates that Valtruk owns and operates six trucks and one trailer.

Frandle alleges that he desires to terminate business as a cement carrier. Valtruk alleges that it has the equipment

and employees necessary to perform the service to the public in Los Angeles County and that authorization of the transfer will benefit the public.

There have been no protests to the granting of this application, but the Director of Transportation of the Commission's Transportation Division has recommended by memorandum, which is hereby incorporated as Exhibit No. 1, that what is commonly known as a "subhaul restriction" be inserted in the certificate when it is transferred to Valtruk.

After consideration the Commission finds that the proposed transfer including the restriction would not be adverse to the public interest. A public hearing is not necessary.

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

Valtruk, Inc. 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 to and within specified counties. 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 October 31, 1965, Clarence D. Frandle (seller) may sell and transfer, and Valtruk, Inc. (purchaser), may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established as its own, said rates and rules. 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. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with

the first day of the current fiscal year to and including the effective date of the transfer.

5. Upon completion of the transfer herein authorized, a certificate of public convenience and necessity is granted to Valtzuk, Inc., a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof and subject to the restriction therein contained.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order supersedes the certificate of public convenience and necessity granted by ex parte Resolution No. 13825, Sub No. 29, which certificate is hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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

Dated at San Francisco, California, this 26th day of OCTOBER, 1965.

Frederick B. Holbeck
President
John L. Fitch
George L. Dwyer
August
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

VALTRUCK, INC.
(a corporation)

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Valtruk, Inc., 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 County of Los Angeles from any and all points of origin subject to the following restriction:

Whenever Valtruk, Inc., engages other carriers for the transportation of property of Robert A. Schnepf and/or Gerald Goldene or Chapel Builders or Valtruk, Inc., or customers or suppliers of said individuals or company or corporation, Valtruk, Inc., shall not pay such other carriers rates and charges less than rates and charges published in the Valtruk, Inc., tariffs on file with the Commission.

Issued by California Public Utilities Commission.

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