

Decision No. 69926

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
HEC TRUCKING CORPORATION for )  
authority to transfer certificate )  
from Readymix Concrete Company, Ltd., )  
a corporation, and remove suspension. )

Application No. 47823  
(Filed August 18, 1965)

O P I N I O N

Readymix Concrete Company, Ltd. (Readymix) and HEC Trucking Corporation (HEC) are California corporations certificated as cement carriers.

Readymix received its authority from Resolution No. 13823, Sub. No. 34, dated June 23, 1964. By Decision No. 68480, dated January 12, 1965 in Application No. 46381, this authority was suspended at the request of Readymix. This authority extends to fifty-four California counties.

HEC derives its authority from Resolution No. 14536, Sub. No. 2, dated July 7, 1965. It extends to twenty-one counties. All twenty-one of these are included in the Readymix certificate.

The application alleges that the principal stockholder of Readymix has died, leaving a complicated estate. As a result the managers of his estate decided to discontinue the operations of Readymix. Accordingly they procured the suspension mentioned above and now seek authority to sell the right to HEC for \$5,400 and contemporaneously remove the suspension authorized by Decision No. 68480.

HEC is active in the business. It lists forty-one pieces of equipment in an exhibit attached to the application. In other exhibits it shows (rounded off to the nearest thousand) \$700,000 in assets, net worth of \$217,000 and gross revenues of \$614,000 for the first five months of 1965.

Neither applicant has an appendix type of certificate at the present time; therefore, the following order will revoke both of the resolution certificates and will grant an appendix type certificate to HEC.

In view of the fact that HEC Trucking Corporation is affiliated with H. E. Casey Company which in turn is affiliated with Ken Royce, Inc., Frisk, Firenze & McLean, Inc., and Giammona Trucking, Inc., an alter ego restriction should and will be inserted in the following order.

The Commission finds that:

1. The transfer proposed in the application would not be adverse to the public interest.
2. HEC Trucking Corporation is affiliated with H. E. Casey Company, which in turn is affiliated with Ken Royce, Inc., Frisk, Firenze & McLean, Inc., and Giammona Trucking, Inc.
3. HEC has the financial resources, experience, facilities, equipment and personnel to transport cement to the counties named in Appendix A attached hereto.
4. Public convenience and necessity require that a certificate be granted to HEC to transport property as a cement carrier to and within said counties from any and all points of origin, subject to the restriction in said Appendix A.

5. The suspension of the operative right of Readymix Concrete Company, Ltd. should be terminated.

The Commission concludes that:

1. The sought transfer should be granted.
2. The present operating authority of HEC and Readymix should be revoked.
3. A certificate of public convenience and necessity as a cement carrier should be granted to HEC Trucking Corporation as provided by the following order.

HEC Trucking Corporation 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.

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

A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1966, Readymix Concrete Company, Ltd. may sell and transfer, and HEC Trucking Corporation, may purchase and acquire, the cement carrier certificate of public convenience and necessity referred to in the application, in accordance with the terms set forth in the application, but subject to the terms of this order.

2. Within thirty days after the consummation of the transfer herein authorized, HEC Trucking Corporation 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. HEC Trucking Corporation 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 it has adopted or established, as its 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. On or before the end of the third month after the consummation of the transfer as herein authorized, HEC Trucking Corporation 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 year to and including the effective date of the transfer.

5. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof, the operative rights granted by Resolution No. 13823, Sub. No. 34, dated June 23, 1964, and Resolution No. 14536, Sub. No. 2, dated July 7, 1965, 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 HEC Trucking Corporation, as particularly set forth in Appendix A attached hereto and hereby made a part hereof.

6. Whenever HEC Trucking Corporation engages other carriers for the transportation of property of H. E. Casey Company, or Ken Royce, Inc., or Frisk, Firenze & McLean, Inc., or Giammona Trucking, Inc., or HEC Trucking Corporation, or customers or suppliers of said companies or corporations, HEC Trucking Corporation shall not pay such other carriers rates and charges less than the rates and charges published in HEC Trucking Corporation's tariffs on file with this Commission.

7. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof, the suspension provided for in Decision No. 68480, dated January 12, 1965, in Application No. 46381, is hereby terminated.

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

Dated at San Francisco, California, this 9<sup>th</sup> day of NOVEMBER, 1965.

Frederick B. Holtschoff  
President

Carl E. Mitchell

George L. Hoover

Augustus

William B. Belmont  
Commissioners

HEC Trucking Corporation, 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 to and within the Counties of Alameda, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo and Yuba from any and all points of origin subject to the following restriction.

RESTRICTION: Whenever HEC Trucking Corporation engages other carriers for the transportation of property of H. E. Casey Company or Ken Royce, Inc., or Frisk, Firenze & McLean, Inc., or Giammona Trucking, Inc., or HEC Trucking Corporation or customers or suppliers of said companies or corporations, HEC Trucking Corporation shall not pay such other carriers rates and charges less than the rates and charges published in HEC Trucking Corporation's tariffs on file with this Commission.

END OF APPENDIX A

Issued by California Public Utilities Commission.

Decision No. 69926, Application No. 47823.