

ORIGINALDecision No. 70354

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DEVINE & SON TRUCKING CO., a)
 corporation, to purchase and)
 ROBERT B. COKER, an individual,)
 to sell an operative right as a)
 cement carrier.)

Application No. 48061
 (Filed November 17, 1965)

O P I N I O N

Robert B. Coker (hereinafter referred to as Coker) and Devine & Son Trucking Co. (hereinafter referred to as Devine) by this application seek authority for Coker to sell and transfer and Devine to purchase and acquire Coker's certificate of public convenience and necessity to operate as a cement carrier.

The Commission granted Coker a certificate of public convenience and necessity to operate as a cement carrier from any and all points of origin to points in the Counties of Colusa, Contra Costa, Sacramento, Solano, Yolo and Yuba by Resolution No. 13821, Sub. No. 52, dated June 23, 1964, in Application No. 46421. Devine holds a certificate of public convenience and necessity authorizing it to transport specified commodities, including building and paving materials between points on 46 routes in California, and general commodities, with certain exceptions and qualifications, between various points.

The verified application avers that Coker desires to retire from and discontinue his business as a cement carrier, and that on October 1, 1965, the parties entered into an agreement whereby Coker agreed, subject to authorization by this Commission,

to sell the operating rights here involved to Devine for \$250. Devine's balance sheet, attached to the application as Exhibit C, indicates the depreciated value of its assets, including operating equipment, to be \$185,841.60 and shows that it had an earned surplus of \$174,647.28 as of December 31, 1964.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary.
2. The proposed transfer would not be adverse to the public interest.
3. The orderly administration of applicable regulatory statutes and regulations requires that the certificate of public convenience and necessity here involved be restated in an in-lieu certificate.

Conclusion of Law

The application should be granted as hereinafter provided.

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

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1966, Robert B. Coker may sell and transfer, and Devine & Son Trucking Co., a corporation, 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, Devine & Son Trucking Co. 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. Devine & Son Trucking Co. 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, Devine & Son Trucking Co. 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 right granted by Resolution No. 13821, Sub. No. 52, dated

June 23, 1964, in Application No. 46421, is 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 Devine & Son Trucking Co., as more particularly set forth in Appendix A attached hereto.

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

Dated at San Francisco, California, this 15th day of FEBRUARY, 1966.

Fredrick B. Halchoff
President

George A. Brown

Augusta

William W. Brown

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Devine & Son Trucking Co., 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 Colusa, Contra Costa, Sacramento, Solano, Yolo and Yuba from any and all points of origin, except to the extent covered by its highway common carrier right.

End of Appendix A

Issued by California Public Utilities Commission.

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