

ORIGINALDecision No. 72537

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SENATOR TRUCK SERVICE, INC., a corporation, to sell and transfer cement operating authority to ROCK TRANSPORT, INC., a corporation, and HARRY L. HAMES, doing business as BIG THREE TRUCKING CO., by Joseph S. Potts, Trustee in Bankruptcy, and M. HARDY TRUCKING CO., a corporation, to sell and transfer certificates of public convenience and necessity authorizing the transportation of cement to SENATOR TRUCK SERVICE, INC., a corporation.

Application No. 49259
Filed April 5, 1967

O P I N I O N

Applicants seek the transfer of certain operating authority as cement carriers. Each of the applicants presently holds a certificate of public convenience and necessity as a cement carrier. Senator Truck Service, Inc. (Senator), is so authorized to the following counties: Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Los Angeles, Madera, Marin, Merced, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Sutter and Yolo.

Rock Transport, Inc. (Rock), holds cement carrier authority to the following counties: Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba.

A.49259 NB

Harry L. Hames, doing business as Big Three Trucking Co. (Big Three), holds cement carrier authority to the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura.

M. Hardy Trucking Co. (Hardy), a corporation, holds cement carrier authority to the County of Monterey.

On August 25, 1966, Big Three was adjudicated a bankrupt by the United States District Court for the Central District of California. Joseph S. Potts was appointed trustee for the estate in bankruptcy. Thereafter, the referee in bankruptcy authorized the sale of Big Three's certificate as a cement carrier to Senator for \$7,500.

On February 1, 1967, Senator orally agreed to purchase from Hardy its cement carrier operating authority, subject to Commission authorization, for \$1,500.

On February 14, 1967, Senator and Rock orally agreed upon the sale by Senator and purchase by Rock of Senator's cement carrier authority to Los Angeles County for \$1,500, to be contingent upon Commission authorization of the purchase by Senator of the Big Three cement carrier certificate. The sale by Senator and purchase by Rock of cement carrier authority will allow Senator to avoid duplication of operating rights to Los Angeles County.

Senator and Rock have attached to the verified application Exhibits E and C respectively which are balance sheets and income statements setting forth their financial position. As of November 30, 1966, Senator had net capital of \$23,193.37 and Rock, as of December 31, 1966, had net capital of \$53,479.66.

Exhibits D and F are equipment lists for the same two applicants and indicate that they possess sufficient equipment to provide service if the transfers are authorized. In addition both

Senator and Rock state they are in positions to acquire additional operating equipment should it be necessary.

Authorization of the transfers requested will continue the availability of carriers in the various counties involved to the same extent as at present, but will replace one carrier, Big Three, which is bankrupt, with another, Senator, which is viable and allow Hardy to discontinue cement carrier operation to Monterey County.

Each of the purchasing applicants herein possesses the experience and has the equipment and facilities to provide cement carrier service.

There have been no protests or requests for public hearing, and a public hearing is not necessary.

Senator has agreed that its certificate may be restricted as to its use of other carriers when transporting property of its affiliates. The Transportation Division has requested that the certificate of Rock Transport, Inc., be restricted similarly as to its use of other carriers. Such restrictions will be imposed.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfers are consummated, the revocation of the certificates currently held by Harry L. Hames, M. Hardy Trucking Co., Rock Transport, Inc., and Senator Truck Service, Inc., and the issuance of certificates in appendix form to Senator Truck Service, Inc., and Rock Transport, Inc.

Senator Truck Service, Inc., and Rock Transport, Inc., are 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 authorizations herein granted shall not be construed as a finding of the value of the rights herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before June 30, 1967, Senator Truck Service, Inc., Joseph S. Potts, Trustee in Bankruptcy for Harry L. Hames, and M. Hardy Trucking Co. may sell and transfer, and Senator Truck Service, Inc., and Rock Transport, Inc., may purchase and acquire the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Senator Truck Service, Inc., and Rock Transport, Inc., 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. Senator Truck Service, Inc., and Rock Transport, Inc., shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established as their 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 transfers 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, Senator Truck Service, Inc., 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 Harry L. Hames and M. Hardy Trucking Co. for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfers authorized in paragraph 1 hereof are consummated, certificates of public convenience and necessity are granted to Senator Truck Service, Inc., and Rock Transport, Inc., corporations, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code between the points and over the routes particularly and respectively set forth in Appendices A and B attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificates of public convenience and necessity granted by Resolutions Nos. 13821, Sub. No. 40, 13823, Sub. No. 14, and 13825, Subs. Nos. 6 and 54, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificates herein granted, Senator Truck Service, Inc., and Rock Transport, Inc., shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, Senator Truck Service, Inc., and Rock Transport, Inc., shall file a written acceptance of the certificates herein granted. They are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they will be required, among other things, 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-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D may result in a cancellation of the operating authorities granted by this decision.
- b. Senator Truck Service, Inc., and Rock Transport, Inc., shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 6th day of JUNE, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

/nb

APPENDIX A

SENATOR TRUCK SERVICE, INC.
(a corporation)

Original Page 1

Senator Truck Service, 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, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the Counties of (See Restriction):

Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Sutter, Ventura and Yolo;

RESTRICTION:

Whenever Senator Truck Service, Inc., engages other carriers for the transportation of property of Acme Concrete Company, Inc., and John W. Vickrey, Joint Venture, or Acme Concrete Company, Inc., or John W. Vickrey, or J. W. Vickrey, Inc., or Vickrey Transport, Inc., or Freeway Sawing, Inc., or customers or suppliers of said individual, joint venture, partners, or corporations, Senator Truck Service, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in the carrier's tariffs on file with this Commission.

END OF APPENDIX A

Issued by California Public Utilities Commission.

Decision No. 72537, Application No. 49259.

Rock Transport, 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, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the Counties of (See Restriction):

Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Los Angeles, Marin, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba;

RESTRICTION:

Whenever Rock Transport, Inc., engages other carriers for the transportation of property of the Rock Transport, Inc., or Redding Transit Mix, Inc., or customers or suppliers of said corporations, Rock Transport, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in the carrier's tariffs on file with this Commission.

END OF APPENDIX B

Issued by California Public Utilities Commission.

Decision No. 72537, Application No. 49259.