

ORIGINAL

Decision No. 72901

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

EARL P. GRANT, an individual, doing
business as GRANT MATERIALS SUPPLY,
to transfer and of SPRAGUES' ROCK
AND SAND COMPANY, a California
Corporation, to acquire a Certificate
of Public Convenience and Necessity.

Application No. 49373
(Filed May 15, 1967)

O P I N I O N

In this application, Spragues' Rock and Sand Company (Spragues) (buyer) of Irwindale, California, requests authority to purchase, and Earl P. Grant, an individual, doing business as Grant Materials Supply, (Grant), (seller) requests authority to sell his cement carrier certificate authorizing the transportation of cement between points in Los Angeles and Orange Counties.

A certified copy of the Articles of Incorporation of the buyer are on file with the Commission with its Permit No. 19-44326. It is alleged that an oral agreement of sale was entered into between the parties to transfer the certificate of public convenience and necessity issued to seller by Resolution No. 13823, Sub 18, dated June 23, 1964, in File No. T-68,641 for an agreed price of \$500.

Applicants alleged that the agreed purchase price of \$500 for the certificated authority represents less than the original cost of establishing the same.

The equipment list attached to the application describes 9 dump trailers and 7 full trailers owned by the buyer.

The buyer's balance sheet dated January 31, 1967, describes total assets of \$223,466.03, consisting of the following:

Current cash and receivables	\$ 87,138.88
Fixed assets	123,159.20
Deposits and investments	13,167.95

The liabilities are described as:

Current liabilities	\$ 34,974.08
Notes and mortgages	34,814.22
Capital stock issued	16,317.44
Surplus	116,261.82
Net profit July 1, 1966-January 31, 1967 . .	<u>21,098.47</u>
Total Liabilities	\$ 223,466.03

The officers and directors of buyer are Willard L. Sprague, (President and Director), Dorothy M. Madden, (Vice President and Director), and Leona M. Weary, (Secretary-Treasurer and Director), who are alleged to have experience in the trucking and transportation business of more than 25 years.

The buyer requests authority to adopt the tariff of seller, and requests permission to establish rates and charges set forth in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21), and Western Motor Tariff Bureau Scope of Operations and Participating Carrier, Tariff No. 4, (Cal. P.U.C. No. 6).

Because of the expense involved, applicant purchaser requests that it be relieved from the provisions of Rule 29(a) of the Commission's Rules of Procedure, which require service upon all competing carriers. According to the application, a copy thereof was served upon California Trucking Association.

No protests have been received.

The Commission has considered this matter and finds that:

1. The proposed sale and transfer would not be adverse to the public interest.
2. The buyer possesses the experience, equipment, personnel, and financial resources to operate and maintain the proposed service.

A public hearing is not necessary.

On the basis of the foregoing findings we conclude that the application should be granted. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Grant and the issuance of a certificate in appendix form to Spragues.

Spragues' Rock and Sand Company, a California 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 as cement carrier. 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.

In issuing our order herein, we place Spragues' Rock and Sand Company and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return said corporation should be allowed to earn on its investment in facilities and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before October 1, 1967, Earl P. Grant, an individual, doing business as Grant Materials Supply may sell and transfer, and Spragues' Rock and Sand Company, a corporation, may purchase and acquire, the operative rights and property referred to in the application.
2. Spragues shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

3. Within thirty days after the consummation of the transfer herein authorized, Spragues 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.

4. Spragues 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.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Spragues 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.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Spragues' Rock and Sand Company, a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, and as provided in Appendix A attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in paragraph 6 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13823, Sub. No. 18, dated June 23, 1964, in File No. T-68,641, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

8. Whenever Spragues' Rock and Sand Company engages other carriers for the transportation of property of Spragues' Rock and Sand Company or customers or suppliers of said corporation, carrier shall not pay such other carriers rates and charges less than the rates and charges published in said carrier's tariffs on file with the Commission.

9. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the consummation of the transfer herein authorized, Spragues' Rock and Sand Company shall file a written acceptance of the certificate herein granted. Spragues' Rock and Sand Company is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and insurance requirements of the Commission's

General Order No. 100 series. Failure to comply with and observe the provisions of General Order No. 100 series may result in a cancellation of the operating authority granted by this decision.

- (b) Spragues' Rock and Sand Company shall maintain its 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, an annual report of its operations in such form, content and number of copies as the Commission, from time to time, shall prescribe.

10. Spragues' Rock and Sand Company is hereby relieved from the provisions of Rule 37(a), formerly Rule 29(a), of the Commission's Rules of Procedure.

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

Dated at San Francisco, California, this 15th day of AUGUST, 1967.

President

William H. Brown

George

William Lyons, Jr.

Paul P. Morrison
Commissioners

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

BR/GLF *

Appendix A

Spragues' Rock and Sand Company
(a corporation)

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Spragues' Rock and Sand Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier between the following points:

From any and all points of origin to all points and places within the Counties of Los Angeles and Orange.

Whenever Spragues' Rock and Sand Company engages other carriers for the transportation of property of Spragues' Rock and Sand Company or customers or suppliers of said corporation, carrier shall not pay such other carriers rates and charges less than the rates and charges published in said carrier's tariffs on file with the Commission.

Issued by California Public Utilities Commission.

Decision No. 72901, Application No. 49373.