

ORIGINAL

Decision No. 72954

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DIVERSIFIED ENTERPRISES, INC., a
corporation, to transfer and of
APEX BULK COMMODITIES, a corporation,
to acquire the certificate of public
convenience and necessity. }

} Application No. 49448

O P I N I O N

Diversified Enterprises, Inc., requests authority to sell and transfer and Apex Bulk Commodities requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was issued by Resolution No. 13823, Sub. No. 32, dated June 23, 1964, as amended by Decision No. 68631, dated February 16, 1965, in Application No. 46515. The agreed cash consideration is \$500.

Although applicant purchaser is a newly formed corporation, its officers and directors have been associated with the trucking and transportation business for many years. As of June 7, 1967, applicant purchaser indicated a net worth in the amount of \$10,000.

After consideration the Commission finds that the proposed transfer 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.

Apex Bulk Commodities 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1967, Diversified Enterprises, Inc., may sell and transfer, and Apex Bulk Commodities may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Apex Bulk Commodities 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. Apex Bulk Commodities 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, Apex Bulk Commodities 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Apex Bulk Commodities, a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13823, Sub. No. 32, as amended by Decision No. 68631, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, Apex Bulk Commodities shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, Apex Bulk Commodities shall file a written acceptance of the certificate herein granted. Apex Bulk Commodities 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 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. Apex Bulk Commodities 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, annual reports of its 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 22nd day of AUGUST, 1967.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

Apex Bulk Commodities, 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):

Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura.

RESTRICTION:

Whenever Apex Bulk Commodities, a corporation, engages other carriers for the transportation of property of Apex Bulk Commodities or Bulk Transportation or customers or suppliers of said corporations, Apex Bulk Commodities 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. 72954, Application No. 49448.