

ORIGINALDecision No. 73447

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of VERNON L. SMITH, an individual,)
and TERRI TRUCKING, INC., a cor-)
poration, for Authority for VERNON)
L. SMITH to transfer, and for TERRI)
TRUCKING, INC., to acquire a Cement)
Carrier's Certificate.)

Application No. 49578
(Filed July 31, 1967)

O P I N I O N

The application alleges that Vernon L. Smith is the owner of a cement carrier certificate to operate in and to the Counties of Los Angeles, Orange, San Diego, Ventura and Santa Barbara under Commission Resolution No. 13821, Sub. 55, dated June 23, 1964.

Terri Trucking has a similar certificate to operate in and to Los Angeles County only, acquired from Frandle Trucking by authorization in Decision No. 69847, dated October 26, 1965 in Application No. 47777, as amended by Decision No. 72991, dated August 29, 1967.

One protest was received, filed by a Los Angeles attorney, in behalf of Honby, Inc. and N. S. Rini. Smith and Honby had filed Application No. 48712 to transfer this same certificate from Smith to Honby. It was dismissed at the request of those applicants by Decision No. 72723. Such protest cannot be entertained.

Terri Trucking has agreed to pay \$3500 in cash for the Smith right. Financial statements attached to the application indicate that Terri Trucking has the financial resources to operate under the right whose transfer is sought. It is alleged that Terri Trucking will have the employees and equipment necessary to provide the service under the acquired certificate.

The Commission is of the opinion that the application should be granted. The method of grant will be to cancel Terri Trucking's present right (Los Angeles County) and to grant Terri a new appendix-type certificate for the five Smith counties.

The Commission finds that:

1. The transfer proposed in Application No. 49578 would not be adverse to the public interest.

2. Terri Trucking, Inc. has the financial resources, facilities, equipment and personnel to transport cement to and within Santa Barbara, Ventura, Los Angeles, Orange and San Diego Counties from any and all points of origin.

3. Public convenience and necessity require that a certificate be granted to Terri Trucking, Inc. to transport property as a cement carrier to and within the Counties of Santa Barbara, Ventura, Los Angeles, Orange and San Diego from any and all points of origin.

4. A public hearing is not necessary.

The Commission concludes that:

1. The sought transfer should be granted.

2. The present operating authority of Vernon L. Smith and Terri Trucking, Inc. should be revoked upon consummation of the transfer.

3. A certificate of public convenience and necessity as a cement carrier should be granted to Terri Trucking, Inc. as provided by the following order.

Terri Trucking, Inc., a 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 herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before March 31, 1968, Vernon L. Smith may sell and transfer, and Terri Trucking, Inc., 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, Terri Trucking, 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. Terri Trucking, Inc. shall file tariffs in triplicate with the Commission, naming rates and rules governing the common carrier operations authorized herein. 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.

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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. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof, the operative rights granted by Resolution No. 13821, Sub. No. 55, dated June 23, 1964, and Decision No. 69847, in Application No. 47777, dated October 26, 1965, as amended by Decision No. 72991, dated August 29, 1967, are revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a cement carrier is granted Terri Trucking, Inc., as particularly set forth in Appendix A, attached hereto and made a part hereof.

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

Dated at San Francisco, California, this 5th day of DECEMBER, 1967.

D. E. Hatchell
President

William G. Bennett

Augustin

William Synoux Jr.

Fred P. Monsey
Commissioners

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APPENDIX A

TERRI TRUCKING, INC.

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Terri Trucking, Inc., 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 Santa Barbara, Ventura, Los Angeles, Orange and San Diego from any and all points of origin.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 73447, Application No. 49578.