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ORIGINAL

Decision No. 73739

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application
of Carl McCain, Seller, and Louis H.
Hunte, Buyer, for Authority to Transfer
Cement Carrier Operating Rights.

Application No. 49906
(Filed December 26, 1967)

O P I N I O N

Carl McCain requests authority to sell and transfer and Louis H. Hunte requests authority to purchase and acquire a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was described and set forth in Resolution No. 13821, Sub. 76, dated June 23, 1964, in Application No. 46360, and authorizes operation to and within the Counties of Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, Santa Barbara, and Ventura from any and all points of origin in the State of California. The proposed transfer involves only the County of San Diego. The agreed cash consideration is \$1,000.

Applicant buyer is the chairman of the Board of Pre-Mixed Concrete Company, located in San Diego and engaged in the production, sale and distribution of cement products. Therefore, the appropriate restriction pertaining to the employment of subhaulers will be included in the order which follows.

The application was listed on the Commission's Daily Calendar of December 28, 1967. No objection to the granting of the application has been received.

After consideration the Commission finds that the proposed transfer 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 transfer is consummated, the revocation of the certificate presently held by Carl McCoin and the issuance of separate certificates in appendix form, one to Carl McCoin and the other to Louis H. Hunte.

Carl McCoin and Louis H. Hunte are 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 August 1, 1968, Carl McCoin may sell and transfer, and Louis H. Hunte may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Louis H. Hunte 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. (a) Louis H. Hunte shall file tariffs in triplicate in the Commission's office, naming rates and rules governing the common carrier operations described in Appendix B, attached hereto.

(b) Carl McCain shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations described in Appendix A, attached hereto.

(c) The effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized and on not less than thirty days' notice to the Commission and the public.

(d) 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. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authorities granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, certificates of public convenience and necessity are granted to Louis H. Hunte, an individual, and to Carl McCain, an individual, authorizing each of them 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 and Appendix B, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13821, Sub. 76, dated June 23, 1964, in Application No. 46360, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. In providing service pursuant to the certificates herein granted, Louis H. Hunte and Carl McCain shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of either or both the operating authorities granted by this decision.

(a) Within thirty days after the effective date hereof, Louis H. Hunte and Carl McCain, each separately, shall file a written acceptance of the certificate, each is herein granted. Louis H. Hunte and Carl McCain 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.

(b) Louis H. Hunte and Carl McCain 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, an annual report 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 20th day of FEBRUARY, 1968.

[Signature]
President

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

[Signature]
[Signature]
[Signature]
Commissioners

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Appendix A

Carl McCoin

Original Page 1

Carl McCoin, an individual, 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 as defined in Section 214.1 of the California Public Utilities Code, from any and all points of origin to all points and places within the Counties of:

Kern, Los Angeles, Orange, Riverside, San Luis Obispo, Santa Barbara and Ventura.

End of Appendix A

Issued by California Public Utilities Commission.

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Appendix B

Louis H. Hunte

Original Page 1

Louis H. Hunte, an individual, 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 as defined in Section 214.1 of the California Public Utilities Code, from any and all points of origin to all points and places within the County of San Diego, subject to the following restriction:

Whenever Louis H. Hunte engages other carriers for the transportation of property of Louis H. Hunte, or H. G. Fenton Material Company, a corporation, or Pre-Mixed Concrete Company, a corporation, or Monarch Materials Company, a corporation, or Western Salt Company, a corporation, or customers or suppliers of said individual or corporations, Louis H. Hunte shall not pay such other carriers rates and charges less than the rates and charges published in Louis H. Hunte's tariffs on file with this Commission.

End of Appendix B

Issued by California Public Utilities Commission.

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