

ORIGINAL

Decision No. 74256

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of FRED WINKLER, SR., RALPH)
WINKLER, HERMAN WINKLER and)
STANLEY WINKLER, dba WINKLER)
BROS. TRANSPORTATION, for an)
order authorizing (a) The)
transfer of cement carrier)
certificate and equipment to)
WINKLER BROS. TRANSPORTATION,)
a California corporation; and)
(b) For the issue of \$95,100.00)
aggregate par value of its)
capital stock.)

Application No. 50249
Filed May 20, 1968

O P I N I O N

This is an application for an order of the Commission
(1) authorizing Fred Winkler, Sr., Ralph Winkler, Herman Winkler
and Stanley Winkler, doing business as Winkler Bros. Transportation,
to sell and transfer a cement carrier certificate of public
convenience and necessity and certain related assets to Winkler
Bros. Transportation, a corporation, and (2) authorizing the
latter, in acquiring said assets subject to current liabilities,
to issue 951 shares of its \$100 par value capital stock.

Fred Winkler, Sr., Ralph Winkler, Herman Winkler and
Stanley Winkler, doing business as Winkler Bros. Transportation,
conduct cement carrier operations in various parts of this State

pursuant to the certificate of public convenience and necessity granted by Resolution No. 13825, Sub. No. 49, dated June 23, 1964. Other trucking activities are carried on under permits issued by this Commission.

In the present proceeding the owners request authority to sell and transfer said cement carrier certificate of public convenience and necessity, together with certain assets, to Winkler Bros. Transportation, a California corporation organized on or about February 5, 1968. The corporation proposes to acquire said assets, subject to current liabilities, in exchange for 951 shares of its \$100 par value capital stock.

A pro forma balance sheet of the corporation, dated as of January 31, 1968, giving effect to the proposed transactions, is attached to the application as Exhibit B and is summarized as follows:

Assets

Current assets	\$ 6,645
Net tangible property	88,546
Intangible property	<u>1</u>
Total	<u>\$95,192</u>

Liabilities

Capital stock	\$95,100
Paid in surplus	<u>92</u>
Total	<u>\$95,192</u>

After consideration the Commission finds that: (1) the proposed transactions will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of the cement carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Fred Winkler, Sr., Ralph Winkler, Herman Winkler and Stanley Winkler, doing business as Winkler Bros. Transportation, and the issuance of a certificate in appendix form to Winkler Bros. Transportation, a corporation.

Winkler Bros. Transportation, 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 as a 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.

O R D E R

IT IS ORDERED that:

1. On or after the date hereof and on or before September 30, 1968, Fred Winkler, Sr., Ralph Winkler, Herman Winkler and Stanley Winkler may sell and transfer, and Winkler Bros. Transportation, a corporation, may purchase and acquire, the cement carrier certificate of public convenience and necessity and related assets referred to in this proceeding.
2. Winkler Bros. Transportation, a corporation, on or before September 30, 1968, may assume the liabilities referred to in the application and, for the purpose specified in this proceeding, may issue not exceeding 951 shares of its \$100 par value capital stock.

3. Winkler Bros. Transportation, a corporation, 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.

4. Within thirty days after the consummation of the transfer herein authorized, Winkler Bros. Transportation, a corporation, 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.

5. Winkler Bros. Transportation, a corporation, shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the cement 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 ten days after the date of this order on not less than ten 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. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authority granted by this decision.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, Winkler Bros. Transportation, a corporation, 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 sellers for the period commencing with the first day of the current year to and including the effective date of the transfer.

7. In the event the transfer authorized in Ordering Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Winkler Bros. Transportation, 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.

8. The certificate of public convenience and necessity granted in Ordering Paragraph No. 7 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13825, Sub. No. 49, dated June 23, 1964, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Ordering Paragraph No. 5 hereof.

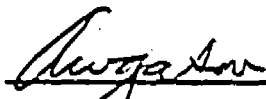
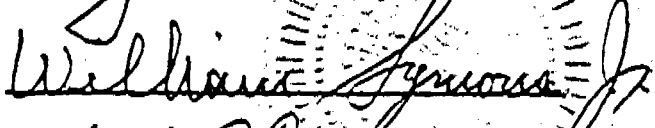
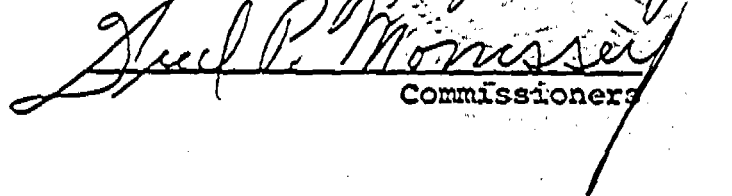
9. In providing service pursuant to the certificate herein granted, Winkler Bros. Transportation, a corporation, shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the date hereof, Winkler Bros. Transportation, a corporation, shall file a written acceptance of the certificate herein granted. Winkler Bros. Transportation, a corporation, 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 series.
- b. Winkler Bros. Transportation, a corporation, 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. The effective date of this order is the date hereof.

Dated at San Francisco, California,
this 18th day of JUNE, 1968.


President




Commissioners

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

Winkler Bros. Transportation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier from any and all points of origin within the State of California to all points located in the following counties:

Alameda, Amador, Butte, Calaveras, Colusa,
Contra Costa, El Dorado, Fresno, Glenn,
Humboldt, Kern, Lake, Lassen, Madera,
Mendocino, Merced, Monterey, Napa, Nevada,
Placer, Plumas, Sacramento, San Francisco,
San Joaquin, San Mateo, Santa Clara, Shasta,
Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
Sutter, Tehama, Trinity, Tuolumne, Yolo
and Yuba.

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 74256, Application No. 50249.