

ORIGINALDecision No. 75657

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 (A) MATICH TRANSPORTATION COMPANY,
 a corporation, to sell, and of FIKSE
 BROS., INC., a corporation, to pur-
 chase, a cement carrier certificate
 authorizing service to and within the
 Counties of Alameda, Contra Costa,
 El Dorado, Fresno, Imperial, Inyo,
 Kern, Kings, Lake, Los Angeles,
 Merced, Orange, Placer, Riverside,
 Sacramento, San Bernardino, San
 Diego, San Francisco, San Joaquin,
 San Luis Obispo, Santa Barbara, Santa
 Clara, Solano, Stanislaus, Tulare and
 Ventura, in the State of California,
 pursuant to Sections 851-853 of the
 California Public Utilities Code.

(B) FIKSE BROS., INC., a corporation,
 to issue shares of its common capital
 stock, pursuant to Sections 816-830
 of the California Public Utilities
 Code.

Application No. 50985
 (Filed April 2, 1969)

O P I N I O N

Match Transportation Company requests authority to sell and transfer and Fikse Bros., Inc., requests authority to purchase and acquire, a prescriptive right authorizing operations as a cement carrier. In addition thereto, Fikse Bros., Inc., requests authority to issue 7,500 shares of its common capital stock.

The operating right was set forth in Commission Resolution No. 13823, Sub-No. 6, dated June 23, 1964, and authorizes the transportation of cement to and within the Counties of Alameda, Contra Costa, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Lake, Los Angeles, Merced, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo,

Santa Barbara, Santa Clara, Solano, Stanislaus, Tulare and Ventura. The agreed cash consideration is \$5,200.

Fikse Bros., Inc. was incorporated on June 7, 1967, and heretofore has been engaged in the leasing of motor vehicle equipment to for-hire carriers. It is presently indebted to Henry Fikse, Alfred Fikse, Jr., and John Henry Fikse in the amount of \$355,981.98 for cash advanced and motor vehicle equipment. In consideration of the cancellation of said indebtedness it herein requests authority to issue to each of said individuals 2,500 shares of its common capital stock having a total par value of \$75,000. For the six-months' period ending December 31, 1968, Fikse Bros., Inc. indicated a net profit of \$33,366.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the cement carrier authority presently held by Matich Transportation Company and the issuance of a certificate in appendix form to Fikse Bros., Inc.

Fikse Bros., Inc. 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, these rights extend to the holder a full or partial monopoly of a class of business. 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 December 1, 1969, Matich Transportation Company may sell and transfer, and Fikse Bros., Inc., may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser 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 ten days after the effective 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser 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 Fikse Bros., Inc., authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points 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 operating right set forth in Commission Resolution No. 13823, Sub-No. 6, dated June 23, 1964, which operating right is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the effective date hereof, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if it accepts such certificate, it will be required, among other things, to comply

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with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.

8. Purchaser 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.

9. After the effective date hereof and within sixty days after the consummation of the transfer herein authorized, purchaser may issue a total of 7,500 shares of its common capital stock.

10. Purchaser shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

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

Dated at San Francisco, California, this 13th day of MAY, 1969.

William Symons, Jr.
President

Augustin

J. P. Morrison

W. M. ...

[Signature]
Commissioners

Fikse Bros., 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 from any and all points of origin to and within the counties of Alameda, Contra Costa, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Lake, Los Angeles, Merced, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Stanislaus, Tulare, and Ventura, subject to the following:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.
2. Whenever Fikse Bros., Inc. engages other carriers for the transportation of property of Henry Fikse and/or John Fikse and/or Alfred Fikse, Jr. or John Fikse and Alfred Fikse, Jr., a partnership, doing business as Fikse Trucking Company or Fikse Bros., Inc. or customers or suppliers of said individuals, partnership, corporation, firms or companies, Fikse Bros., Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Fikse Bros. Inc.'s tariffs on file with the Commission.

End of Appendix A

Issued by California Public Utilities Commission

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