

ORIGINAL

Decision No. 75823

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SENATOR TRUCK SERVICE, INC., a
corporation, to sell and transfer
a Certificate of Public Convenience
and Necessity as a cement carrier to
FOOTHILL INDUSTRIES, a corporation.

Application No. 51011
(Filed April 17, 1969)

O P I N I O N

Senator Truck Service, Inc., a corporation, requests authority to sell and transfer and Foothill Industries, a corporation, requests authority to purchase and acquire certificated rights authorizing operation as a cement carrier.

The seller's certificate, revised by Decision No. 72910 dated August 15, 1967 in Application No. 49497 and by Decision No. 75327 dated February 18, 1969 in Application No. 50767, authorizes the transportation of cement from any and all points of origin in California to all points and places within the Counties of Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Solano, Sonoma, Sutter, and Yolo.

The proposed transfer involves only that portion of the certificate relating to operations from all points within the State of California to points within the County of Los Angeles. The agreed cash consideration is \$1,350.00.

Applicant Foothill Industries, a California corporation, alleges that it is wholly owned by Transmix Corporation, a California corporation, and that it will lease from Transmix eight (8) 1969 Peterbilt Tractors and eight (8) 1969 Fruehauf Bottom-Dump Pull Trailers. It alleges that this equipment will be utilized to conduct the proposed operations and that buyer is well equipped and experienced to provide service to the County of Los Angeles under the authority sought to be purchased.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. In the event the transfer is consummated, the order which follows will provide for the revision of the certificate presently held by Senator Truck Service, Inc. and the issuance of a certificate in appendix form to Foothill Industries.

Foothill Industries, 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 these 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.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1970, Senator Truck Service, Inc., a corporation, may sell and transfer, and Foothill Industries, a corporation, may purchase and acquire, the operative rights referred to by the purchase agreement 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 five days after the effective date of this order on not less than five 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 No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Foothill Industries, a corporation, authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendix A, Original Page 1 of this decision, attached hereto and made a part hereof.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated the authority of Senator Truck Service, Inc., is revised accordingly and Appendix A of Decision No. 75327 dated February 18, 1969 in Application No. 50767 is hereby amended by incorporating therein First Revised Page 1, attached hereto and made a part hereof, in revision of Original Page 1.

7. In providing service pursuant to the certificates herein granted, Foothill Industries 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.

8. Within thirty days after the effective date hereof, Foothill Industries shall file a written acceptance of the certificate herein granted. Applicant 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-E.

9. Foothill Industries 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. Foothill Industries shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 24th day of JUNE, 1969.

William J. Lyons
President
Arthur
Shirley R. Monsey
W. F. Williams
John
Commissioners

Foothill Industries, a corporation, 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 County of (See Restrictions):

Los Angeles

RESTRICTION:

Whenever Foothill Industries, a corporation, engages other carriers for the transportation of property of Foothill Industries or Transmix Corporation or customers or suppliers of said corporations, Foothill Industries shall not pay such other carriers rates and charges less than the rates and charges published in the carriers' tariffs on file with the Commission.

Foothill Industries is hereby placed on notice that if the certificate of public convenience and necessity granted by ordering paragraph No. 5 of the decision noted in the margin is not exercised for a period of one year, it shall lapse and terminate.

Issued by California Public Utilities Commission.

Decision No. 75823, Application No. 51011.

Senator Truck Service, Inc., a corporation, 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 Restrictions):

Alameda, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Solano, Sonoma, Sutter, and Yolo;

RESTRICTION:

1. Whenever Senator Truck Service, Inc. engages other carriers for the transportation of property of Acme Concrete Company, Inc. and John W. Vickrey, Joint Venture, or Acme Concrete Company, Inc., or John W. Vickrey, or J. W. Vickrey, Inc., or Vickrey Transport, Inc., or Freeway Sawing, Inc., or customers or suppliers of said individual, joint venture partners, or corporations, Senator Truck Service, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in the carriers' tariffs on file with this Commission.

Issued by California Public Utilities Commission.

Changed by Decision No. 75823 Application No. 51011.