

Decision No. 75946**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PETER RADONICH, ANDREW RADONICH )  
 and WILLIAM RADONICH doing business )  
 as RADONICH BROS. TRUCKING, a )  
 partnership to sell and transfer a )  
 certificate of public convenience )  
 and necessity as a cement carrier )  
 to CAL-COAST CARRIERS, INC., a )  
 corporation. }

Application No. 50996  
 (Filed April 9, 1969)

O P I N I O N

Peter, Andrew and William Radonich, doing business as Radonich Bros. Trucking, a partnership, (hereinafter referred to as sellers) seek authority to sell and transfer, and Cal-Coast Carriers, Inc., a corporation, (hereinafter referred to as buyer) seeks to purchase a certificate of public convenience and necessity as a cement carrier.

Sellers presently conduct operations under a certificate of public convenience and necessity granted pursuant to Sections 1063 and 1064 of the Public Utilities Code by Resolution No. 13825 of July 23, 1964; the certificate authorizes the transportation of cement from all points and places in California to all points and places in Santa Clara County.

Sellers also hold a radial highway common carrier permit, a highway contract carrier permit and a household goods carrier permit. It is also planned to transfer these authorities to buyer. Commission authority for these transfers will be sought in a different proceeding.

Cal-Coast is a newly formed California corporation and is alleged to be a wholly owned subsidiary of Valley Cedar Products, a California corporation.

As evidence of buyer's financial fitness a balance sheet and income statement of Valley Cedar Products is appended as Exhibit "C" to the application. Exhibit "C" shows assets (1968) of \$2,811,231, stockholders' equity of \$620,806 and liabilities of \$2,190,425; 1968 income before non-recurring Federal transactions was \$132,400.

The Radoniches are alleged to be desirous of terminating their partnership operations. As part of the purchase agreement, William and Peter have agreed to enter into three-year exclusive employment contracts with buyer. William Radonich and Peter Radonich are each to receive 2,000 shares of common stock in Valley Cedar Products Co., as well as \$15,000 each in cash.

It is alleged that the pre-transfer operations of sellers served a distinct public need for cement transportation, and that buyer intends to continue service to the same shippers and members of the public heretofore served by sellers. It is further alleged that the officers and employees of Cal-Coast are thoroughly familiar with the trucking business, especially the transportation of cement, and that buyer has the necessary financial ability, equipment and facilities to render service commensurate with the public need.

Buyer intends to adopt and republish sellers' tariffs. Buyer has advised the Commission that it will accept the usual restriction as to subhaul payments on transportation performed for related corporations.

A copy of the application was served on California Trucking Association and the application was listed on the Commissions's Daily Calendar of April 10, 1969. No protests have been received. A public hearing is not necessary.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Peter, Andrew and William Radonich and the issuance of a certificate in appendix form to Cal-Coast Carriers, Inc.

Cal-Coast Carriers, 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 and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before October 1, 1969, Peter, Andrew and William Radonich may sell and transfer, and Cal-Coast Carriers, Inc. may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, buyer 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. Buyer 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 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. 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, buyer 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 Cal-Coast Carriers, Inc., a corporation, authorizing

it to operate as a cement carrier as defined by 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 certificate of public convenience and necessity granted by Resolution No. 13825 of July 23, 1964, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, buyer 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 consummation of transfer, buyer shall file a written acceptance of the certificate herein granted. Buyer 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.
- (b) Buyer 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.

- (c) Buyer shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If buyer 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 twenty days after the date hereof.

San Francisco

Dated at \_\_\_\_\_, California, this 22nd day of JULY, 1969.

William J. Agnew, Jr.  
President

Arthur L. ...

J. P. ...

Thomas ...  
Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Cal-Coast Carriers, Inc., 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 to and within the county of Santa Clara subject to the following restrictions:

1. Whenever Cal-Coast Carriers, Inc. engages other carriers for the transportation of property of Xeric Corporation or Mar-Clin Corporation or Roofing Company of Hayward, California, or Williams Roofing & Insulation, Inc. or customers or suppliers of said corporations or companies, Cal-Coast Carriers, Inc. shall not pay such other carriers' rates and charges less than the rates and charges published in Cal-Coast Carriers, Inc.'s tariffs on file with the Commission.

2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

End of Appendix A

Issued by the California Public Utilities Commission.

Decision No. 75946, Application No. 50996.