

ORIGINAL

Decision No. 76600

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of RICHARDS TRUCKING, a corporation,)
to sell, and of L. R. DENNEY, INC.,)
a corporation, to purchase, a por-)
tion of a cement carrier certificate)
authorizing service to and within)
the Counties of Santa Barbara and)
Ventura, in the State of California,)
pursuant to Sections 851-853 of the)
California Public Utilities Code.)

Application No. 51355
Filed September 10, 1969

O P I N I O N

Richards Trucking, a California corporation (hereinafter referred to as "seller"), seeks to sell and L. R. Denney, Inc., a California corporation (hereinafter referred to as "purchaser"), seeks to purchase a portion of a certificate of public convenience and necessity as a cement carrier.

Seller is the owner and holder of a certificate of public convenience and necessity as a cement carrier issued to it by this Commission in Decision No. 76153, dated September 10, 1969, in Application No. 51262. Said cement certificate authorizes the transportation of cement to and within the Counties of Los Angeles, Santa Barbara and Ventura, California. In addition, seller is engaged in the transportation of property between points in the State of California, pursuant to highway carrier permits issued to it by this Commission.

Purchaser is the owner and holder of a certificate of public convenience and necessity as a cement carrier issued to it by this Commission in Resolution No. 13919. Said certificate authorizes the transportation of cement to and within the Counties

of Kern, Los Angeles, Orange, Riverside, San Bernardino and San Diego, California. In addition, purchaser is engaged in the transportation of property between points in the State of California, pursuant to permits issued by this Commission.

By this application, seller seeks authority to sell and purchaser seeks authority to purchase, pursuant to Sections 851-853 of the California Public Utilities Code, that portion of seller's cement certificate which authorizes service to and within the Counties of Santa Barbara and Ventura, California.

As cement carriers, seller and purchaser participate in the rates set forth in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21), M. J. Nicolaus, Issuing Officer. Seller is not a party to any joint through rate tariff. Purchaser proposes to adopt the tariff of seller.

Attached to the application as Exhibit A, is a copy of the purchase agreement, dated September 5, 1969, between seller and purchaser. The purchase price is the sum of \$3,000. No other asset is involved in this sale. Five hundred dollars was payable on execution of the purchase agreement and the balance is payable in cash upon consummation.

Attached to the application marked as Exhibit B, is a Statement of Condition of Purchaser as of May 31, 1969, and a Statement of Earnings for the period January 1, 1969 to May 31, 1969, inclusive. Exhibit C to the application is a list of motor vehicle equipment of purchaser. Exhibit B is the latest available financial information for purchaser and the motor vehicle equipment listed in Exhibit C will be utilized by purchaser to perform service under the portion of the cement certificate which it proposes to acquire.

Exhibit D to the application is an income statement of seller for the calendar year 1968. Said income statement incorporates the latest available financial information for seller.

Applicants allege that the proposed transfer of said portion of the certificate will be in the public interest for the following reasons:

- a. The officers and directors of the purchaser have had considerable experience in the transportation of cement for a number of years. Purchaser presently owns a large number of units of motor vehicle equipment specifically designed for the transportation of cement. It has adequate financial resources, and the price to be paid for the described portion of the cement certificate is fair and reasonable and, therefore, is in the public interest. The total purchase price will be paid with funds presently held by purchaser.
- b. There will be no change in the rates assessed to the shipping public.
- c. The entry of purchaser in the cement transportation industry within the Counties of Santa Barbara and Ventura, California, will be balanced by the withdrawal of seller therefrom and, therefore, there will be no change in competitive relationships.
- d. Purchaser presently is authorized to provide service to and within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino and San Diego, California, and, therefore, the proposed transaction will enable it to provide an expanded service to the public.

Copies of the application have been furnished to major cement mills and the California Trucking Association. The application was listed on the Commission's calendar of September 12, 1969. No protests have 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 certificates presently held by applicants and the issuance of restated certificates in appendix form to both.

Purchaser 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. 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 April 1, 1970, Richards Trucking may sell and transfer, and L. R. Denney, 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. Applicants shall amend or reissue the tariffs on file with the Commission to show that seller has withdrawn or canceled and purchaser has established or adopted, rates and rules governing operations referred to herein. 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Richards Trucking, 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.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to L. R. Denney, 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 B, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted in paragraphs 4 and 5 of this order shall supersede the certificates of public convenience and necessity granted by Decision No. 76153, and Resolution No. 13919 which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, applicants shall file written acceptance of the certificates herein granted. Applicants 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 insurance requirements of the Commission's General Order No. 100-E.

8. Applicants 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, their annual reports on their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they 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 27th day of DECEMBER, 1969.

William Aguayo, Jr.
President

Augustus

Richard J.

Thomas

Yuan L. Stynes
Commissioners

The certificate hereinafter noted supersedes all certificated operating authority heretofore granted to Richards Trucking, a corporation, or its predecessors.

Richards Trucking, by the certificate of public convenience and necessity granted by 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, restricted as shown below, from any and all points of origin to all points and places in the County of Los Angeles.

RESTRICTIONS:

1. Whenever Richards Trucking engages other carriers for the transportation of property of Richards Trucking or Thermal Operators, Inc. or customers or suppliers of said corporations, Richards Trucking shall not pay such other carriers rates and charges less than the rates and charges published in Richards Trucking's tariffs on file with this 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 California Public Utilities Commission.

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The certificate hereinafter noted supersedes all certificated operating authority heretofore granted to L. R. Denney, Inc., a corporation, or its predecessors.

L. R. Denney, Inc., by the certificate of public convenience and necessity granted by 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, restricted as shown below, from any and all points of origin to all points and places within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura.

RESTRICTIONS:

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

End of Appendix B

Issued by California Public Utilities Commission.

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