

ORIGINAL

Decision No. 77117

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of GREENE'S READY MIXED CONCRETE
CO., a corporation, to transfer,
and FLEETWAY CEMENT SERVICE INC.,
a corporation, to acquire a Cement
Carrier Certificate.

Application No. 51664
(Filed January 28, 1970)

O P I N I O N

Greene's Ready Mixed Concrete Co., a corporation,
requests authority to sell and transfer and Fleetway Cement Service
Inc., a corporation, requests authority to purchase and acquire
certificated rights authorizing operation as a cement carrier.

The seller's certificate of public convenience and necessity was issued by the Public Utilities Commission of the State of California by Resolution No. 13323, Sub. No. 26, dated June 23, 1964, in Application No. 46533 and authorizes the transportation of cement from any and all points of origin in California to all points and places within the Counties of Kern, Los Angeles and Riverside. All of said authority is proposed to be transferred for the agreed cash consideration of \$150.00 pursuant to an oral agreement entered into between the parties.

Applicant Fleetway alleges that it is a recently formed California corporation for the specific purpose of acquiring the cement certificate above described and that it is financially able to consummate the proposed transaction and conduct the operations authorized by the certificate.

The purchaser alleges that it plans and proposes to adopt the tariffs of the seller and participate in the rates set forth in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal.P.U.C. No. 21), and not to be a party to through routes or joint rates with any other carrier.

Exhibit A attached to the application is a statement of financial position of Fleetway showing assets of \$22,100.00. Exhibit C attached to the application is an equipment list of Fleetway as of January 1, 1970 showing three tractors and six trailers held by the purchaser to be used in performance of the service under the certificate.

The filing of the application was posted in the daily calendar of the Commission on February 2, 1970 and applicant certified that copies were forwarded to the California Trucking Association and certain cement companies in San Francisco, Los Angeles and Oakland. The Commission staff has reviewed the application.

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 certificate presently held by Greene's Ready Mixed Concrete Company and the issuance of a certificate in appendix form to Fleetway Cement Service Inc.

Fleetway Cement Service 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, 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 October 1, 1970, Greene's Ready Mixed Concrete Co. may sell and transfer, and Fleetway Cement Service 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, 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 1 hereof is consummated, a certificate of public convenience and necessity is granted to Fleetway Cement Service 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 certificate of public convenience and necessity granted by Resolution No. 13823 Sub. No. 26, dated June 23, 1964, in Application No. 46533, which certificate is 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, purchaser shall file a written acceptance of the certificate herein granted. Purchaser 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 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. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

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

Dated at San Francisco, California, this 21st day of APRIL, 1970.

Auger President
J. P. [illegible]
[illegible]
William L. Sturgeon Commissioners

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

Fleetway Cement Service Inc., a corporation, 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 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 Kern, Los Angeles and Riverside.

End of Appendix A

Issued by California Public Utilities Commission.

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