

Decision No. 78227

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MARVIN E. KING, doing business
as MARVIN E. KING TRUCKING, to
transfer, and GEORGE E. SACK, JR.,
an individual, to acquire a
Cement Carrier Certificate.

Application No. 52386
(Filed December 29, 1970)

O P I N I O N

Marvin E. King, an individual doing business as Marvin E. King Trucking (seller), requests authority to sell and transfer, and George E. Sack, Jr., an individual (purchaser), requests authority to purchase and acquire, a cement carrier certificate.

The certificated authority was issued to seller by Commission Resolution No. 13821, Sub. No. 24, dated June 23, 1964, in Application No. 46452, and authorizes the transportation of cement to and within the Counties of Kern, Los Angeles, Orange and Ventura.

The agreed cash consideration is \$4,200. As of October 31, 1970, purchaser indicated a net worth in the amount of \$56,000.

It is alleged that seller desires to withdraw from the transportation of cement; that purchaser is presently engaged in the transportation of dump truck commodities pursuant to a permit issued by the Commission; and that purchaser has on order the necessary equipment and has the ability to provide service under the authority to be transferred.

The application was listed on the Commission's Daily Calendar of January 6, 1971. No objection to the granting of the application has 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 certificate presently held by seller and the issuance of a certificate in appendix form to purchaser. The order will also provide that the certificate issued to purchaser shall lapse and terminate if not exercised for a period of one year. Because of the alleged urgency of the sought transfer, the order will be made effective five days after the date hereof.

George E. Sack, Jr., 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.

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1971, Marvin E. King, an individual doing business as Marvin E. King Trucking, may sell and transfer, and George E. Sack, Jr., 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 he has adopted or established, as his 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 George E. Sack, Jr., authorizing him 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 Commission Resolution No. 13821, Sub. No. 24, 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 he accepts the certificate of public convenience and necessity herein granted, he 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-F.

8. Purchaser shall maintain his 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 his 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, he shall make the appropriate tariff filings as required by the General Order.

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10. The certificate of public convenience and necessity granted in paragraph 5 shall lapse and terminate if not exercised for a period of one year.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 26th day of JANUARY, 1971.

J. B. Williams
Chairman

William Lyons

John P. ...

Vernon L. Sturgeon

Commissioners

George E. Sack, Jr., 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 any and all points in the Counties of Kern, Los Angeles, Orange and Ventura, subject to the following restriction:

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.

Decision No. 78227, Application No. 52336.