

Decision No. 78396

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ROCK TRANSPORT, INC., a California
corporation, to sell and transfer a
certificate of public convenience
and necessity authorizing the trans-
portation of cement to F. L. MARTIN
dba F. L. MARTIN TRUCKING.

Application No. 52668
(Filed June 7, 1971)

O P I N I O N

Rock Transport, Inc., requests authority to sell and transfer, and F. L. Martin requests authority to purchase and acquire, a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 78761, dated June 2, 1971, in Application No. 52563, and authorizes the transportation of shipments of cement to and within various counties within the State. The transfer relates to the counties of San Joaquin and Stanislaus. The agreed cash consideration is \$2,000. Applicant purchaser is presently operating as a cement carrier.

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, seller and purchaser, and the issuance of new certificates.

Applicants are 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, those rights extend to the holders 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 December 1, 1971, Rock Transport, Inc., may sell and transfer, and F. L. Martin, doing business as F. L. Martin Trucking, 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 and seller shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their 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 authorities granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, certificates of public convenience and necessity are granted to Rock Transport, Inc., and F. L. Martin, doing business as

F. L. Martin Trucking, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points particularly set forth in Appendices A and B, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificates of public convenience and necessity as set forth in Appendix A of Decision No. 78761, dated June 2, 1971, in Application No. 52563, and Decision No. 70061, dated December 7, 1965, in Application No. 47922, as amended, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfer herein authorized is consummated, applicants shall file written acceptances 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-F.

7. 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 of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

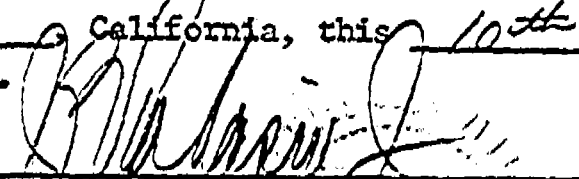
8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of


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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 10th day of AUGUST, 1971.



Chairman








Commissioners

Rock Transport, Inc., 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 following counties, subject to the restrictions shown below:

Alameda, Butte, Contra Costa, El Dorado,
Mendocino, Placer, Plumas, Sacramento,
Santa Clara, Shasta, Solano, Tuolumne, Yolo.

RESTRICTION:

1. Whenever Rock Transport, Inc., engages other carriers for the transportation of property of the Rock Transport, Inc., or Redding Transit Mix, Inc., or customers or suppliers of said corporations, Rock Transport, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in the carrier'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.

Decision No. 78996, Application No. 52660.

F. L. Martin, dba F. L. Martin Trucking, by the certificate of public convenience and necessity granted in 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 following counties, subject to the restrictions shown below:

Fresno, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, Sacramento, San Bernardino, San Joaquin, San Mateo, Santa Clara, Siskiyou, Stanislaus and Tulare.

RESTRICTION:

1. Whenever F. L. Martin, dba F. L. Martin Trucking, engages other carriers for the transportation of property of F. L. Martin or F. L. Martin Trucking or Martin Trucking and Ready Mix or Visalia Ready Mix or Portable Ready Mix or Selma Ready Mix or customers or suppliers of said individual, companies, or corporations, F. L. Martin, dba F. L. Martin Trucking shall not pay such other carriers rates and charges less than rates and charges published in F. L. Martin, dba F. L. Martin Trucking, 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 B)

Issued by California Public Utilities Commission.

Decision No. 78996, Application No. 52663.