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ORIGINAL

Decision No. 79174

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In re the Application of Robert M. Verdugo, an individual, TO TRANSFER and RMV Trucking Company, a corporation, TO ACQUIRE a Cement Carrier Operating Rights and Property Certificate.

Application No. 52702 (Filed June 15, 1971; Amended July 9, 1971)

O P I N I O N

Applicants request authority to transfer cement carrier certificate No. 1514, issued June 23, 1964, by Resolution No. 13821, from Robert M. Verdugo to RMV Trucking Company, a corporation, and for the corporation to issue 5,000 shares of common stock, valued at \$1.00 per share, to Robert Manuel Verdugo and Leon Zisfain, with each receiving 2,500 shares; and that RMV Trucking Company be permitted to assume the long term obligations of Robert Manuel Verdugo. The business will continue to operate at 6681 Richfield Road, Anaheim, California.

The certificate to be transferred authorizes the transportation of cement to and within the Counties of Kern, Los Angeles, Orange and Ventura. Robert M. Verdugo has more than 7 years experience in the business of transporting property by motor vehicle and will continue as manager and president of the applicant corporation. There will be no change in operating procedure. The application notes that the corporation was formed on June 15, 1970 in the State of California and assets were transferred through inadvertence, without first obtaining authority to do so from this Commission.

Copies of the application were mailed to the California Trucking Association and to several cement companies. The application was listed on the Commission's Daily Calendar of June 22,

1971 and the amendment to the application on the Calendar of July 12, 1971. No objection to 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 Robert M. Verdugo and the issuance of a certificate in appendix form to RMV Trucking Company.

RMV Trucking Company 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 money, property or labor to be procured or paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

In issuing our order herein, we place RMV Trucking Company and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return it should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of its stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1971, Robert M. Verdugo may transfer, and RMV Trucking Company may acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, transferee 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. Transferee 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, transferee 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 transferor for the period commencing with the first day of the current year to and including the effective date of the transfer, unless transferor continues operations under a certificate or under a permit with revenues requiring the filing of an annual report on the operations retained.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to RTV Trucking Company, 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. 13821, 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, transferee shall file a written acceptance of the certificate herein granted. Transferee 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-F.

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

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

collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

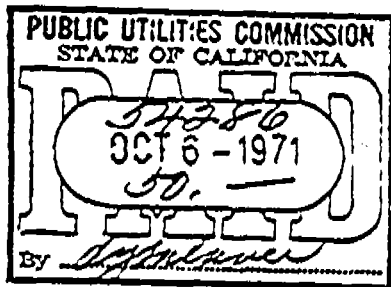
10. RMV Trucking Company, on or before December 1, 1971, for the purposes specified in the foregoing opinion, may issue 5,000 shares of its \$1.00 par value common stock and may assume the long term obligations of Robert Manuel Verdugo.

11. RMV Trucking Company shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

12. This order shall become effective when RMV Trucking Company has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.00.

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

Dated at San Francisco, California, this 28th day of SEPTEMBER, 1971.



William S. Agnew, Jr. Chairman
Vernon L. Sturgeon
J. P. Vukasin, Jr. Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

RMV Trucking Company, 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, 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. 79174, Application No. 52702.