

Decision No. 81642**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
CARL McCOIN, an individual, to sell,
and of JOHN C. GODINHO, an individual,
to purchase, a cement carrier cer-
tificate authorizing service to and
within the Counties of Kern, Los Angeles,
Orange, Riverside, San Luis Obispo,
Santa Barbara, and Ventura, in the
State of California, pursuant to
Section 851-853 of the California
Public Utilities Code.

Application No. 54063
(Filed May 25, 1973)

O P I N I O N

Carl McCain requests authority to sell and transfer and John C. Godinho requests authority to purchase a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was issued by Decision No. 73739 dated February 20, 1968 in Application No. 49906 and authorizes the transportation of cement to and within the counties of Kern, Los Angeles, Orange, Riverside, San Luis Obispo, Santa Barbara, and Ventura.

The cash consideration for the certificate is \$7,000. In addition to the certificate the agreement between the parties provides for the transfer of two tractors and two sets of double trailing equipment valued at \$43,000 payable as follows: \$8,000 in cash and a promissory note for \$35,000 payable in three years in monthly installments of \$1,132.60 with interest at the rate of 10.2 percent per annum.

Applicant purchaser is presently engaged in the dairy business and has had no prior experience in the for-hire transportation; however, the operation will be managed by his son, John M. Godinho, who is presently employed by a large cement carrier and has had for-hire cement carrier experience. As of October 4, 1972, applicant purchaser indicated a net worth in the amount of \$256,508.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. The Commission further finds that pursuant to Section 816.5 of the Public Utilities Code no prior authorization of this Commission is required by the parties hereto for the execution of the proposed promissory note relating to the transfer of motor vehicles. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Carl McCain and the issuance of a certificate in appendix form to John C. Godinho.

John C. Godinho is 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 December 1, 1973, Carl McCain may sell and transfer the operative rights and property referred to in the application to John C. Godinho.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that he has adopted or established, as his own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 117-Series 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 transfer, the 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 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to John C. Godinho, authorizing him to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 73739 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-Series.

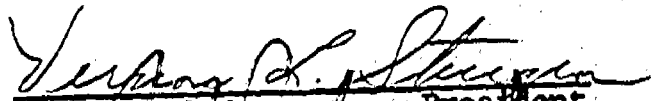
8. Purchaser shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations 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.


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

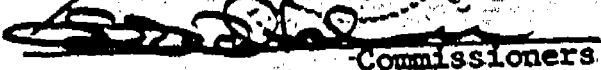
Dated at San Francisco, California, this 24th day of JULY, 1973.



President







Commissioners

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

John C. Godinho, 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, Riverside, San Luis Obispo,
Santa Barbara and Ventura.

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. 81642, Application No. 54063.