

ORIGINAL

Decision No. 82197

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MELVIN SANTRY, JR. to Sell and
Transfer a Certificate of Public
Convenience and Necessity as a
Cement Carrier to KINGS READY MIX,
INC., a California Corporation.

Application No. 54360
(Filed October 3, 1973;
amended October 10, 1973)

O P I N I O N

Melvin Santry, Jr., requests authority to sell and transfer, and Kings Ready Mix requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 72861 dated August 8, 1967 in Application No. 49359 and authorizes the transportation of cement from any and all points of origin to all points and places in the county of Tulare. The agreed cash consideration is \$800.

Applicant purchaser is presently operating as a permitted carrier and also as a cement carrier serving all points and places within the counties of Fresno and Kings pursuant to Commission Resolution No. 13827 dated June 23, 1964. As of July 31, 1973, applicant purchaser indicated a net worth in the amount of \$285,107.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. 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 Melvin Santry, Jr., and the issuance of a certificate in appendix form to Kings Ready Mix.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Kings Ready Mix 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 July 1, 1974, Melvin Santry, Jr., may sell and transfer the operative rights referred to in the application, as amended, to Kings Ready Mix.

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 it has adopted or established, as its 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 Kings Ready Mix authorizing it 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 certificates of public convenience and necessity granted by Decision No. 72861 and Resolution No. 13827, Sub. No. 2, are 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 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.

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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.

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

Dated at San Francisco, California, this 4th day of DECEMBER, 1973.

Vernon L. Stevens
President
Walter J. Brown
Michael J. Brown
Mark A. Brown
Edward J. Brown
Commissioners

Kings Ready Mix, 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 Fresno, Kings and Tulare, subject to the following conditions:

Whenever Kings Ready Mix engages other carriers for the transportation of property of Kings Ready Mix, or customers or suppliers of said corporation, Kings Ready Mix shall not pay such other carriers rates and charges less than the rates and charges published in Kings Ready Mix's tariffs on file with this Commission.

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.

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