

Decision No. 83466

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Cerutti & Sons Transportation Co., Inc., a California corporation, to sell and transfer, and Gary W. Silva Company, Inc., a California corporation, to buy and acquire a cement carrier equipment pursuant to Sections 851-854 of the California Public Utilities Code.

Application No. 54975  
(Filed June 19, 1974)

O P I N I O N

Cerutti & Sons Transportation Co. requests authority to sell and transfer, and Gary W. Silva Co., a California corporation, 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. 81171 dated March 20, 1973 in Application No. 53614 and authorizes the transportation of cement from any and all points of origin to and within the counties of Los Angeles, San Luis Obispo, and Santa Barbara. The agreed consideration is \$2,500 payable as follows: \$500 in cash and \$500 a month, until the balance has been paid, with interest at the rate of 8 percent on the unpaid balance.

Applicant purchaser presently transports property pursuant to a dump truck carrier permit and a highway contract carrier permit and as of December 31, 1973 indicated a net worth in the amount of \$5,767.46.

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 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 Cerutti & Sons Transportation Co. and the issuance of a certificate in appendix form to Gary W. Silva Co.

Purchaser 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 March 1, 1975, Cerutti & Sons Transportation Co. may sell and transfer the operative rights referred to in the application to Gary W. Silva Co.
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. 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 Gary W. Silva Co. 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.

5. The certificate of public convenience and necessity granted by Decision No. 81171 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. 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.

8. 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 Los Angeles, California, this 17<sup>th</sup> day of SEPTEMBER, 1974.

Vernon L. Stearns  
President  
William J. ...  
...  
...  
Commissioners

Gary W. Silva Co., 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 and within the counties of Los Angeles, San Luis Obispo and Santa Barbara subject to the following:

Restriction:

This certificate of public convenience and necessity shall lapse and terminate if not exercised for period of one year.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 83466, Application No. 54975.