

**ORIGINAL**

Decision No. 84308

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of GEORGE E. SACK, JR., an indi- )  
vidual d/b/a GEORGE E. SACK )  
TRUCKING, to sell and transfer )  
Certificates of Public Conve- )  
nience and Necessity as a cement )  
carrier to RELIANCE TRANSPORT )  
CO., a California corporation. )

Application No. 55496  
(Filed February 14, 1975)

O P I N I O N

George E. Sack, Jr., an individual, doing business as George E. Sack Trucking (seller) requests authority to sell and transfer, and Reliance Transport Co., a California corporation (purchaser), 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. 82767 dated April 23, 1974 in Application No. 54677 and authorizes the transportation of cement from any and all points of origin to and within the counties of:

Fresno  
Imperial  
Inyo  
Kern  
Kings  
Los Angeles  
Madera  
Mono  
Monterey  
Orange

Riverside  
San Benito  
San Bernardino  
San Diego  
San Joaquin  
San Luis Obispo  
Santa Barbara  
Santa Clara  
Tulare  
Ventura

The applicants allege that purchaser is a wholly owned subsidiary of Conrock Co., a Delaware corporation. Under an Agreement dated January 21, 1975, seller and Conrock Co. entered into

an agreement whereby Conrock Co. agreed to purchase the operating rights hereinabove described for a total purchase price of \$17,500 payable on the effective date of the Commission's approval of the transfer. The rights under said Agreement were assigned by Conrock Co. to purchaser by Assignment of Agreement dated January 21, 1975 and accepted by purchaser on said date. Said Assignment of Agreement specifically provides that the purchase price to be paid for said rights shall be paid by Conrock and shall not be assumed or paid by Reliance. Said Assignment of Agreement was consented to by applicant Sack on January 21, 1975. Applicant purchaser does not presently hold operating authority issued by this Commission. It will lease from Conrock Co. four cement tank vehicles which will be utilized in the transportation operations. As of February 11, 1975, it showed assets of \$5000, no liabilities and stockholders' equity of \$5000.

A copy of the application was mailed to the California Trucking Association and to several major cement shippers. There are no protests. Applicant purchaser will adopt the tariffs filed with the Commission by seller and requests that such tariff changes become effective on five days' notice to the Commission and to the public.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 George E. Sack, Jr., and the issuance of a certificate in appendix form to Reliance Transport 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 consid-

eration 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 October 1, 1975, George E. Sack, Jr., may sell and transfer the operative rights referred to in the application to Reliance Transport 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 Reliance Transport 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. 82767 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 San Francisco, California, this 8th day of April, 1975.

Vernon L. Stevenson  
President  
William Symons  
Leonard Ross

Commissioners

-4- Commissioner ROBERT BATNOVICH

Present but not participating.

Reliance Transport 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 any and all points in the counties of:

Fresno  
Imperial  
Inyo  
Kern  
Kings  
Los Angeles  
Madera  
Mono  
Monterey  
Orange

Riverside  
San Benito  
San Bernardino  
San Diego  
San Joaquin  
San Luis Obispo  
Santa Barbara  
Santa Clara  
Tulare  
Ventura

Whenever Reliance Transport Co., engages other carriers for the transportation of property of Reliance Transport Co., a corporation, or Conrock Co., a corporation, or customers, or suppliers of said corporations, Reliance Transport Co., shall not pay such other carriers rates and charges less than the rates and charges published in Reliance Transport Co.'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.

Decision No. 84308, Application No. 55495.