

Decision No. 84309

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of: )

Joe Bisceglia an individual )  
doing business as Highway Garage, )  
to sell and of David P. Grimsley )  
an individual doing business as )  
David Grimsley Trucking, to pur- )  
chase cement certificates autho- )  
rizing service to and within the )  
County of Monterey, Santa Clara, )  
Santa Cruz, San Luis Obispo, and )  
Merced, State of California )  
pursuant to Sections 851-853 of )  
the California Public Utilities )  
Code. )

Application No. 55503  
(Filed February 20, 1975)

O P I N I O N

Joe Bisceglia, an individual, (seller) doing business as Highway Garage, requests authority to sell and transfer, and David P. Grimsley, an individual, (purchaser) doing business as David Grimsley Trucking, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Resolution No. 13821, Sub. No. 10 in Application No. 46373, as amended by Decision No. 67830 dated September 15, 1964 and authorizes the transportation of cement from any and all points of origin to and within the counties of Merced, Monterey, San Luis Obispo, Santa Clara and Santa Cruz. The agreed consideration is \$5,500 payable in full within 60 days after the effective date of the Commission's approval of the transfer of the certificate.

Applicant purchaser presently transports property pursuant to a dump truck carrier permit. He operates three tractors, three sets of trailers and five trucks.

Applicant seller participates in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal.P.U.C. No. 21 ) which applicant purchaser proposes to adopt effective with consummation of the proposed transfer.

Applicants have requested relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure, which requires that copies of the application be widely disseminated. It is alleged that copies of the application were mailed to the California Trucking Association and the principal cement mills in this State. It is further alleged that the deviation is justified under Rule 87, to "secure just, speedy and inexpensive determination of the issues presented." No protests to the application have been received.

The Commission finds that the deviation from Rule 37 should be authorized, that the proposed transfer would not be adverse to the public interest and concludes that the application should be granted. 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 Joe Bisceglia and the issuance of a certificate in appendix form to David P. Grimsley.

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 cancelled 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, Joe Bisceglia may sell and transfer the operative rights referred to in the application to David P. Grimsley.

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. 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 David P. Grimsley 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.

5. The certificate of public convenience and necessity granted by Resolution No. 13821, Sub. No. 10, as amended by

Decision No. 67830, 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 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.

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, he shall make the appropriate tariff filings as required by the General Order.

9. Applicants Joe Bisceglia and David P. Grimsley are granted a deviation from Rule 37 of the Commission's Rules of Practice and Procedure to the extent requested in the application.

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. Stanger  
President  
William J. Gorman Jr.  
Leonard Ross

Commissioner ROBERT BATENOVICH

Present but not participating.

Commissioners

DAVID P. GRIMSLEY  
(an individual)  
doing business as  
DAVID GRIMSLEY TRUCKING

David P. Grimsley, 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 Merced, Monterey, San Luis Obispo, Santa Clara and Santa Cruz, 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. 84309, Application No. 55503.