

Decision No. 84676**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Belt Cement
 Lines, Inc., a corporation, MHC)
 Trucking, Inc., a corporation)
 and Robert W. Anderson and)
 Michael Anderson, co-partners,)
 doing business as Anderson)
 Cement a partnership, for the)
 sale, purchase, and transfer of)
 portions of cement common car-)
 rier certificates.)

Application No. 55674
 (Filed May 7, 1975)

OPINION

Belt Cement Lines, Inc., (Belt) MHC Trucking Company Inc., (MHC), both of which are California corporations, and Robert W. Anderson and Michael Anderson, individuals comprising a partnership, doing business as Anderson Cement (Anderson) by this application request authority for:

1. Belt to sell and transfer that portion of its cement carrier certificate of public convenience and necessity authorizing transportation to all points and places to and within the County of San Luis Obispo to MHC and MHC to purchase and acquire such authority.

2. MHC to sell and transfer that portion of its cement carrier certificate of public convenience and necessity authorizing transportation to all points and places to and within the County of San Diego to Anderson and Anderson to purchase and acquire such authority.

Belt's certificate was granted by Decision No. 68241, dated November 24, 1964, in Application No. 47078 and authorizes transportation to and within the Counties of Fresno, Inyo, Kern, Los Angeles, Merced, Mono, San Bernardino, San Luis Obispo, Santa Barbara, Tulare and Ventura. The certificate held by MHC was granted by Decision No. 72158, dated March 14, 1967, in Application No. 49090 and authorizes transportation to and within the Counties of Los Angeles, Orange, San Diego, Santa Barbara and Ventura. MHC also operates under permits issued by the Commission. The Commission has not issued operating authority to Anderson, the partnership.

Consideration for sale of the operating authorities as provided in Purchase and Sale Agreement dated April 5, 1975, as amended, is:

1. From Anderson to MHC - \$1500;
2. From MHC to Belt - \$1500;

payable in full following the Commission's order of approval of the sale and transfer of the operating rights.

Applicant MHC's financial statement of September 30, 1974 shows assets of \$368,823, liabilities of \$154,248 and stockholders' equity of \$213,980. It operates four tractors, seven trailers and one converter. Anderson's Pro Forma Balance Sheet shows assets of \$12,150, no liabilities and equity of \$12,150. The partnership will operate two units of highway equipment. Applicants Belt and MHC participate in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 17 (Cal. P.U.C. No. 21) which the purchasers propose to adopt. The applicants allege that because of the substantial distance between sellers' bases of operations and the counties subject to the application, transfer of the operating authorities will enable purchasers to provide better and more economical service to existing customers and to the public interest

by satisfying their transportation requirements for cement in each county.

Applicants have requested relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure which requires copies of the application to 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 provide just, speedy and inexpensive determination of the issues presented. Notice of the filing of the application was made in the Commission's Daily Calendar of May 8, 1975. 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 transfers are completed, the revocation of the certificates presently held by Belt Cement Lines, Inc., and MHC Trucking Company, Inc., and the issuance of the certificates in appendix form to Belt Cement Lines, Inc., MHC Trucking Company, Inc., and Robert W. Anderson and Michael Anderson, individuals comprising a partnership.

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

Applicant purchasers are 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 December 1, 1975, Belt Cement Lines, Inc., and MHC Trucking Company, Inc., may sell and transfer the operative rights referred to in the application to MHC Trucking Company, Inc., and to Robert W. Anderson and Michael Anderson, individuals comprising a partnership.
2. Within thirty days after the transfers, purchasers shall file with the Commission written acceptances of the certificates and true copies of the bills of sale or other instruments of transfer.
3. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established, as their 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 transfers. The tariff filings made pursuant to this order shall comply in all respects with the regulations to 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 authorities granted by this decision.
4. In the event the transfers authorized in paragraph 1 are completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Belt Cement Lines, Inc.,

MEC Trucking Company, Inc., and Robert W. Anderson and Michael Anderson, individuals comprising a partnership, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendicies A, B and C attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decisions Nos. 68241 and 72158 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants 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. Applicants shall maintain their 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 1, 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. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

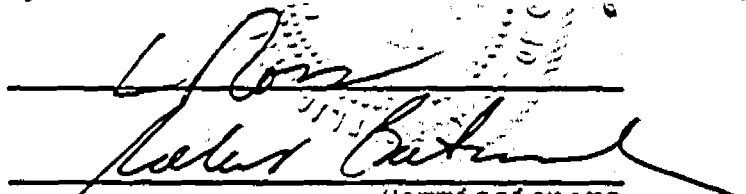
9. Applicants are granted a deviation from Rule 37 of the Commission's Rules of Practice and Procedure to the extent requested.

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

Dated at San Francisco, California, this 15th day of July, 1975.


President




Commissioners

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

Belt Cement Lines, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier to all points and places within the Counties of Fresno, Inyo, Kern, Los Angeles, Merced, Mono, San Bernardino, Santa Barbara, Tulare and Ventura from any and all points of origin, 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. 84676, Application No. 55674.

MHC Trucking Company, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a cement carrier to all points and places within the counties of Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura from any and all points of origin, subject to the following restrictions:

Whenever MHC Trucking Company, Inc., engages other carriers for the transportation of property of Gene E. Sawyer or Sawyer Building Materials or MHC Trucking Company, Inc., or customers or suppliers of said individual, company or corporation, MHC Trucking Company, Inc., shall not pay such other carriers rates and charges less than the rates and charges in MHC Trucking Company, Inc.'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 B)

Issued by California Public Utilities Commission.

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ROBERT W. ANDERSON AND
MICHAEL ANDERSON
(a partnership doing business
as ANDERSON CEMENT)

Robert W. Anderson and Michael Anderson, individuals comprising a partnership, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to operate as a cement carrier to all points and places within the County of San Diego from any and all points of origin, 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 C)

Issued by California Public Utilities Commission.

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