

ORIGINAL

Decision No. 85804

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Ruby I. Webster,)
   
Successor to the Estate of )
   
William R. Webster, and of )
   
William O. Webster, for au- )
   
thority to transfer cement car- )
   
rier certificate to Ruby I. )
   
Webster and William O. Webster.)

Application No. 56315  
(Filed March 4, 1976)

OPINION

Ruby I. Webster, Executrix of the estate of William R. Webster, and William O. Webster (transferors) request authority to transfer and Ruby I. Webster and William O. Webster, partners, (transferees) request authority to acquire a certificate of public convenience and necessity authorizing operations as a cement carrier to and within all points and places in the Counties of Fresno, Inyo, Kern, Kings, Los Angeles, Merced, Orange, San Diego, San Luis Obispo, Santa Barbara and Ventura. The certificate was granted by Decision 79710, dated February 15, 1972, in Application 53085 to W. R. Webster and W. O. Webster.

Applicant, Ruby I. Webster is the surviving spouse and Executrix of the Estate of William R. Webster, deceased. The estate was probated in the Superior Court of the State of California for the County of Los Angeles, No. SE P 3153.

An Order For Distribution Under Will, dated August 7, 1973, (Exhibit One to the application), was made in the probate proceeding, distributing to applicant, Ruby I. Webster, the interest of William R. Webster in the certificate. On August 8, 1973, Ruby I. Webster and William O. Webster entered into a partnership agreement (Exhibit Two of the application) to conduct operations under the certificate.

Transferors participate in Western Motor Tariff Bureau,

Inc., Agent, freight tariffs which transferees propose to adopt. Applicants have submitted copies of shipping documents evidencing operations during the last year under the authority to be transferred.

Applicants have requested relief from the provisions of the Commission's Rules of Practice and Procedure, which require that copies of the application be widely disseminated. Copies of the application were mailed to the California Trucking Association and to various cement producers in this State. Notice of the filing of the application was made in the Commission's Daily Calendar of March 9, 1976. No protests to the application have been received.

The Commission finds that the deviation from its Rules of Practice and Procedure 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 W. R. Webster and W. O. Webster, a partnership and the issuance of a certificate in appendix form to Ruby I. Webster and William O. Webster, a partnership.

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

Applicants 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 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 September 1, 1976, Ruby I. Webster, Executrix of the estate of William R. Webster, and William O. Webster, may sell and transfer the operative rights referred to in the application to Ruby I. Webster and William O. Webster, a transferees
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. Transferees 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 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 117-Series. Failure to comply with the provisions of General Order 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 Ruby I. Webster and William O. Webster, a partnership, authorizing them 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 79710 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

7. Transferees 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 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

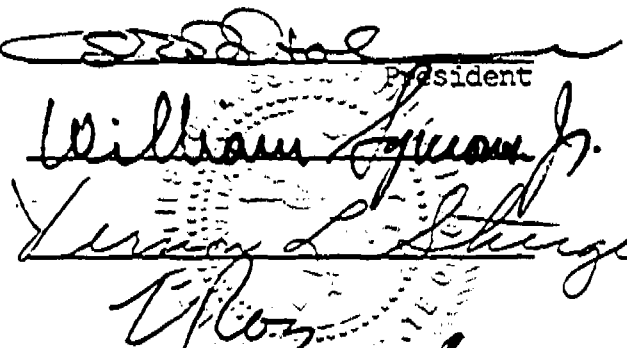
8. Transferees shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If applicants elects not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

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

A. 56315 - gjw \*

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

Dated at San Francisco, California, this 11<sup>th</sup> day of  
May, 1976.

  
William L. Stanton President  
Vernon L. Sturgeon  
Robert Bateman Commissioners

Ruby I. Webster and William O. Webster, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to conduct operations as a cement carrier as defined in Section 214.4 of the Public Utilities Code. from any and all points of origin to all points and places within the Counties of Fresno, Inyo, Kern, Kings, Los Angeles, Merced, Orange, San Diego, San Luis Obispo, Santa Barbara and Ventura, 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 85804, Application 56315.