

Decision No. 86339**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of DONALD R. HARTNETT, an in-)
 dividual, to acquire, and CAMPBELL)
 TRUCK, INC., a corporation, to)
 transfer a Cement Carrier Certifi-)
 cate of Public Convenience and)
 Necessity and certain property)
 pursuant to Sections 851, et seq.,)
 of the California Public Utilities)
 Code.)

Application No. 56559
 (Filed June 16, 1976)

O P I N I O N

Campbell Truck, Inc., a California corporation, (seller) seeks authority to sell and transfer and Donald R. Hartnett, an individual, (purchaser) seeks authority to purchase and acquire a cement carrier certificate of public convenience and necessity and certain highway equipment.

The certificate was granted by Resolution 13825, Sub 62, dated June 23, 1964, as amended by Resolution 17710, dated January 20, 1976, and authorizes transportation to and within the Counties of Butte, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Ventura and Yolo.

Purchaser has been in the oil well cementing business for approximately twenty-three years and proposes to expand this operation to include for-hire transportation of cement.

Pursuant to Purchase and Sale Agreement dated May 13, 1976 between the applicants, purchaser proposes to purchase the certificate and certain highway equipment including two tractors and four trailers, for a total purchase price of \$60,000.00, of which \$14,000.00 shall be allocated to the operating rights and the total sum of \$46,000.00 to the revenue equipment. The sum of \$30,000.00 has been deposited in escrow, and the balance of

\$30,000.00 shall be evidenced by a negotiable promissory note and a security agreement at the time the transfer is approved. The note shall be secured by the revenue equipment and is due and payable on January 30, 1977.

Purchaser's balance sheet of April 23, 1976, shows net worth of \$130,760. Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariff publications to cover operations under the certificate. Purchaser proposes to adopt the tariffs. The applicants have submitted a document evidencing operations under the certificate during the past year.

Copies of the application were served on various cement manufacturers in this State and on the California Trucking Association. The applicants request a deviation from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. Notice of the filing of the application was made in the Commission's Daily Calendar of June 17, 1976. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed transfer and sale of the operating rights and highway equipment and the encumbrance of such equipment would not be adverse to the public interest.
2. The highway equipment herein authorized to be sold is no longer necessary or useful in the performance of the obligation of Campbell Truck, Inc., to serve the public.
3. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.
4. The money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part reasonably chargeable to operating expenses or to income.

5. The effective date of this order should be the date on which it is signed because there is no known opposition and there is no reason to delay granting the authority requested.

The Commission concludes that the proposed transaction 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 Campbell Truck, Inc., and the issuance of a certificate in appendix form to Donald R. Hartnett.

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

O R D E R

IT IS ORDERED that:

1. On or before February 1, 1977, Campbell Truck, Inc., a California corporation, may sell and transfer the operating rights and equipment referred to in the application to Donald R. Hartnett, an individual.

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 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 Donald R. Hartnett, an individual, 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 13825, Sub 62, as amended, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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


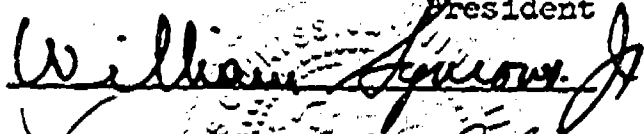
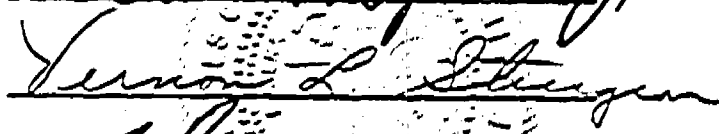
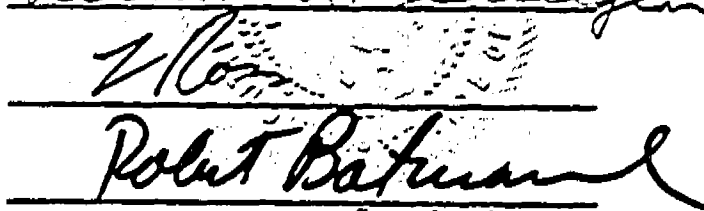
7. Purchaser shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before April 30 of each year, an annual report of his operations 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 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. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 31st day of August, 1976.


President



Commissioners