

ALJ/LEM/jc

Decision 89 02 075 FEB 24 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mailed

In the Matter of the Application of Cambra Trucking, Inc. for transfer of Cement Carrier Certificate T-126098 to Don Conti dba Conti Materials Service for counties of Alameda, Contra Costa, Marin, Monterey, Napa, San Mateo, San Francisco and Solano.

FEB 27 1989

Application 88-12-055
(Filed December 27, 1988)

In the Matter of the Application of Cambra Trucking, Inc. for transfer of Cement Carrier Certificate T-126098 to Conti Trucking, Inc. for the counties of San Joaquin, Santa Clara and Yolo.

Application 88-12-056
(Filed December 27, 1988)

O P I N I O N

On October 26, 1988 M. Nolden, Trustee in Bankruptcy for Cambra Trucking, Inc., filed application to transfer authority to operate as a cement carrier, as defined in Public Utilities (PU) Code § 214.1, within the Counties of Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, and Solano, from Cambra Trucking, Inc. to Donald Edward Conti, doing business as Conti Materials Service. The purchase price for this authority is \$20,000.

Also on October 26, 1988 M. Nolden, Trustee in Bankruptcy for Cambra Trucking, Inc., filed application to transfer authority to operate as a cement carrier within the Counties of San Joaquin, Santa Clara, and Yolo, from Cambra Trucking, Inc. to Conti Trucking, Inc. The purchase price for this authority is \$11,500.

Both applications were protested by Frank C. Alegre (Alegre) and were docketed as Application (A.) 88-12-055 and A.88-12-056, respectively, on December 27, 1988. On

January 12, 1989 Alegre withdrew his protests. Information furnished with A.88-12-055 shows that as of September 1, 1988 Donald Edward Conti had assets of \$1,132,553, liabilities of \$546,000, and a net worth of \$586,553. Information furnished with A.88-12-056 shows that Conti Trucking, Inc. had operating revenues during 1987 of \$7,374,000, operating expenses of \$7,216,000 and an operating ratio of 98.7%. Both transferees have had several years experience in performing transportation services.

Section 1063.5 was added to the PU Code by Assembly Bill (AB) 3490 (Statutes 1988, Chapter 1175). The new legislation requires that before a certificate of public convenience and necessity authorizing operations as a highway common carrier or cement carrier may be issued or transferred, an applicant or proposed transferee must meet the following requirements:

1. Is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the California Highway Patrol (CHP) governing safety.
2. Is committed to observing the hours of service regulations of state and, where applicable, federal law, for all persons, whether employees or subhaulers, operating vehicles.
3. Has a preventive maintenance program in effect for its vehicles conforming to regulations of the CHP.
4. Participates in a program to regularly check the driving records of all persons, whether employees or subhaulers, operating vehicles requiring a class 1 driver's license.
5. Has a safety education and training program in effect for all persons, whether employees or subhaulers, operating vehicles.
6. Will maintain its vehicles in a safe operating condition and in compliance with

the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

7. Has filed with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to self-insure issued by the Director of Industrial Relations.
8. Has provided the commission an address of an office or terminal where documents supporting the factual matters specified above may be inspected by the commission and the CHP.

Form TL 708A is currently being used by the Commission to verify compliance with the new requirements contained in PU Code § 1063.5. The transferees have each furnished a completed Form TL 708A, and have demonstrated compliance with the requirements mandated under PU Code § 1063.5.

Requirement 3 states that applicants must have a preventive maintenance program in effect for vehicles used in transportation for compensation conforming to regulations of the CHP. Conti and Conti Trucking, Inc. included in their applications several pages of forms used in their preventive maintenance programs, including preventive maintenance work sheets, driver daily vehicle condition reports, sample power unit inspection records, and schedules for servicing. We find these programs meet Requirement 3.

Requirement 5 states that applicants must have a safety education and training program in effect for all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation. Employees of both applicants participate in formalized, ongoing training programs. The programs cover safety education, defensive driving, terminal and yard procedures, daily log upkeep, driving techniques, and preventive maintenance. We

find applicants comply with Requirement 5. In the circumstances, the transfers should be authorized.

Findings of Fact

1. Donald Edward Conti has the operational and financial ability necessary to operate as a cement carrier between points named in A.88-12-055.

2. Conti Trucking, Inc. has the operational and financial ability necessary to operate as a cement carrier between points named in A.88-12-056.

3. The transferees meet and have certified compliance with all requirements mandated under PU Code § 1063.5 pertaining to safety and workers' compensation insurance coverage.

Conclusion of Law

The proposed transfers are in the public interest and should be authorized. A public hearing is not necessary.

Only the amounts paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. M. Nolden, Trustee in Bankruptcy for Cambra Trucking, Inc., may sell and transfer the operative rights specified in A.88-12-055 to Donald Edward Conti.

2. M. Nolden, Trustee in Bankruptcy for Cambra Trucking, Inc., may sell and transfer the operative rights specified in A.88-12-056 to Conti Trucking, Inc. These authorizations shall expire if not exercised by April 30, 1989.

3. Purchasers shall:

a. File with the Transportation Division written acceptance of the certificates and a copy of the bill of sale or other

transfer document within 30 days after transfer.

- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 100, 117, and 123, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. File an annual report by April 30 of each year.
- f. Comply with General Order Series 84 (collect-on-delivery shipments). If purchasers elect not to transport collect-on-delivery shipments, they shall file the tariff provisions required by that General Order.

4. When the transfer in A.88-12-055 is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Donald Edward Conti authorizing him to operate as a cement carrier, as defined in PU Code § 214.1, between the points set forth in Appendix A.

5. When the transfer in A.88-12-056 is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Conti Trucking, Inc., authorizing it to operate as a cement carrier, as defined in PU Code § 214.1, between the points set forth in Appendix B.

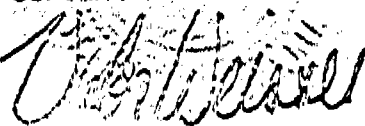
6. The certificate of public convenience and necessity held by Cambra Trucking, Inc., and granted by Resolution 18055 is revoked on the effective date of the tariffs.

This order is effective today.

Dated FEB 24 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OGANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



Victor Weissert, Executive Director

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Appendix A

Donald Edward Conti
doing business as
CONTI MATERIALS SERVICE
(T-153,912)

Original Page 1
Cancels Certificate
dated March 17, 1988

Donald Edward Conti, doing business as Conti Materials Service, 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 all points and places in the following counties subject to the following restriction:

Alameda
Contra Costa
Fresno
Madera
Marin
Merced

Monterey
Napa
Placer
Sacramento
San Francisco
San Joaquin

San Mateo
Santa Clara
Solano
Stanislaus
Tulare
Yolo

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 89 02 075, Applications 88-12-055, 88-12-056.

Conti Trucking, Inc., 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 all points and places in the following counties subject to the following restriction:

San Joaquin Santa Clara Yolo

Restriction: 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.

Decision 89 02 075, Applications 88-12-055, 88-12-056.

the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

7. Has filed with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to self-insure issued by the Director of Industrial Relations.
8. Has provided the commission an address of an office or terminal where documents supporting the factual matters specified above may be inspected by the commission and the CHP.

Form TL 708A is currently being used by the Commission to verify compliance with the new requirements contained in PU Code § 1063.5. The transferees have each furnished a completed Form TL 708A, and have demonstrated compliance with the requirements mandated under PU Code § 1063.5. In the circumstances, the transfers should be authorized.

Findings of Fact

1. Donald Edward Conti has the operational and financial ability necessary to operate as a cement carrier between points named in A.88-12-055.
2. Conti Trucking, Inc. has the operational and financial ability necessary to operate as a cement carrier between points named in A.88-12-056.
3. The transferees meet and have certified compliance with all requirements mandated under PU Code § 1063.5 pertaining to safety and workers' compensation insurance coverage.

Conclusion of Law

The proposed transfers are in the public interest and should be authorized. A public hearing is not necessary.

Only the amounts paid to the State for operative rights may be used in rate fixing. The State may grant any number of

rights and may cancel or modify the monopoly feature of these rights at any time.

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3. Purchasers shall:

- a. File with the Transportation Division written acceptance of the certificates and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 100, 117, and 123, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. File an annual report by April 30 of each year.
- f. Comply with General Order Series 84 (collect-on-delivery shipments). If purchasers elect not to transport collect-on-delivery shipments, they shall file the tariff provisions required by that General Order.

4. When the transfer in A.88-12-055 is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Donald Edward Conti authorizing him to operate as a cement carrier, as defined in PU Code § 214.1, between the points set forth in Appendix A.

5. When the transfer in A.88-12-056 is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Conti Trucking, Inc., authorizing it to operate as a cement carrier, as defined in PU Code § 214.1, between the points set forth in Appendix B.

6. The certificate of public convenience and necessity held by Cambra Trucking, Inc., and granted by Resolution 18055 is revoked on the effective date of the tariffs.

This order is effective today.

Dated _____, at San Francisco, California.