

ORIGINAL

Decision No. 86665

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)
(a) FLEETWAY CEMENT SERVICE, INC.,)
a corporation, to sell, and FRANK)
C. ALEGRE TRUCKING, INC., a cor-)
poration, to purchase, a portion)
of a cement carrier certificate)
authorizing service to and within)
the Counties of Alameda, Contra)
Costa, San Joaquin, Santa Clara)
and Yolo, in the State of Cali-)
fornia; and,)
(b) FLEETWAY CEMENT SERVICE, INC.,)
a corporation, to sell, and ALEX)
A. LA MARK, an individual doing)
business as LA MARK TRANSPORT, to)
purchase, a portion of a cement)
carrier certificate authorizing)
service to and within the County)
of Sonoma, in the State of Cali-)
fornia.)

Application No. 56715
(Filed August 27, 1976)

O P I N I O N

Fleetway Cement Service, Inc., a California corporation, (seller) requests authority to sell and transfer portions of a cement carrier certificate of public convenience and necessity to Frank C. Alegre Trucking, Inc., a California corporation, and Alex A. La Mark, an individual, (purchasers). The certificate was granted by Decision 82070, dated October 30, 1973 in Application 54276 and authorizes operations from any and all points of origin to all points and places in the Counties of Alameda, Contra Costa, Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Solano, Sonoma, Ventura and Yolo.

Both of the purchasers presently hold highway carrier permit authority issued by this Commission. The certificate authority held by seller is to be distributed as follows:

1. Frank C. Alegre Trucking, Inc. - Counties of Alameda, Contra Costa, San Joaquin, Santa Clara and Yolo.
2. Alex A. La Mark - County of Sonoma.
3. Fleetway Cement Service, Inc. - to retain Counties of Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Luis Obispo, Santa Barbara, Solano and Ventura.

Pursuant to the Purchase Agreements dated July 28, 1976 between seller and purchasers, consideration to be paid by Frank C. Alegre Trucking, Inc., is \$5,000 and \$1,000 by Alex A. La Mark; both amounts payable in cash upon the Commission's approval of the proposed transfers.

Purchasers' balance sheets show:

<u>Name</u>	<u>Date</u>	<u>Net Worth</u>
Frank C. Alegre Trucking, Inc.,	December 31, 1975	\$231,201.66
Alex A. La Mark	March 31, 1976	\$ 20,928.34

Seller participates in Western Motor Tariff Bureau, Inc., Agent, freight tariffs which purchasers propose to adopt. Applicants have submitted a copy of a shipping document evidencing operations during the last year under the certificate authority subject to the transfer.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. A copy of the application was served on the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of August 30, 1976. No protests to the application have been received.

The Commission finds that the proposed transfers would not be adverse to the public interest and concludes that the application should be granted. A public hearing is not necessary. The action

taken herein shall not be construed as a finding of the value of the portions of the certificate of public convenience and necessity to be transferred.

The order which follows will provide for, in the event the transfers are completed, the revocation of the certificate presently held by the seller and the issuance of a certificate to seller and to each of the purchasers.

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 March 1, 1977, Fleetway Cement Service, Inc., a California corporation, may sell and transfer the operative rights referred to in the application to Frank C. Alegre Trucking, Inc., a California corporation and to Alex A. La Mark, an individual.
2. Within thirty days after the transfer the applicants shall file with the Commission written acceptances of the certificates and the purchasers shall file true copies of the bills of sale or other instruments of transfer.
3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authorities granted by this decision 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 shall comply with the Commission's General Order 117-Series. Failure to comply with the provisions of the General Order 117-Series may result in 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 Fleetway Cement Service, Inc., a California corporation, Frank C. Alegre Trucking, Inc., a California corporation and Alex A. La Mark, an individual, authorizing them to operate as cement carriers as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A, B and C attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 82070 is 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 the insurance requirements of the Commission's General Order 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 April 30, 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.

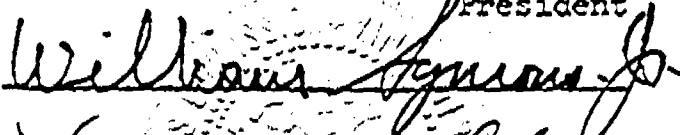

8. Applicants shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

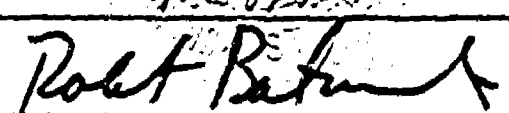
9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

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

Dated at San Francisco, California, this 23rd day of November, 1976.



President





Commissioners

Fleetway Cement Service, 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 within the Counties of Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Luis Obispo, Santa Barbara, Solano and Ventura, subject to the following restrictions:

1. Whenever Fleetway Cement Service, Inc., engages other carriers for the transportation of property of Fleetway Cement Service, Inc., and/or GREENE'S READY MIXED CONCRETE CO., or customers or suppliers of said corporations, Fleetway Cement Service, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Fleetway Cement Service, Inc.'s tariffs on file with this Commission.
2. 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.

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Frank C. Alegre 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 within the Counties of Alameda, Contra Costa, San Joaquin, Santa Clara and Yolo, 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 B)

Issued by California Public Utilities Commission.

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Alex A. La Mark, 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 within the County of Sonoma, 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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