

Decision No. 86831

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

SCHAAFSMA BROS. TRUCKING CO.,)
INC., a corporation, to sell, and)
of STANLEY R. BERCKEFELDT and)
DONALD E. STEELE, co-partners)
doing business as STANDON COMPANY,)
to purchase, a cement carrier cer-)
tificate authorizing service to)
and within the Counties of Fresno,)
Imperial, Inyo, Kern, Los Angeles,)
Merced, Orange, Riverside, San)
Bernardino, San Diego, Santa)
Barbara and Ventura, in the State)
of California, pursuant to Sec-)
tions 851-853 of the California)
Public Utilities Code.)

Application No. 56803
(Filed October 8, 1976)

O P I N I O N

Schaafsma Bros. Trucking Co., a California corporation, (seller) seeks authority to sell and transfer and Stanley R. Berckefeldt and Donald E. Steele, co-partners, (purchasers) seek authority to purchase and acquire a cement carrier certificate of public convenience and necessity.

The certificate was granted by Decision 83980, dated January 14, 1975, in Application 55324 and authorizes transportation to and within the Counties of Fresno, Imperial, Inyo, Kern, Los Angeles, Merced, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura.

Purchasers presently operate under a cement contract carrier permit which they propose to transfer to some other party concurrently with the transfer of the certificate as proposed in the application to avoid conflict with Section 3542.1 of the Public Utilities Code which prohibits any carrier from operating both as a cement carrier and as a cement contract carrier on any public highway.

Pursuant to the Purchase Agreement, dated September 28, 1976, between the applicants the purchase price for the certificate is \$10,000, payable in cash upon consummation.

Purchasers' balance sheet of May 31, 1976, shows net worth of almost \$300,000. They operate four tractors and ten trailers. Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariff publications to cover operation under the certificate. Purchasers propose 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 October 13, 1976. No protests to the application have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it and the requested relief from its Rules of Practice and Procedure 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 Schaafsma Bros. Trucking Co., and the issuance of a certificate in appendix form to Stanley R. Berckefeldt and Donald E. Steele, co-partners.

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. 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 April 1, 1977, Schaafsma Bros. Trucking Co., a California corporation, may sell and transfer the operating rights referred to in the application to Stanley R. Berckefeldt and Donald E. Steele, co-partners.
2. Within thirty days after the transfer the purchasers 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. 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 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 Stanley R. Berckefeldt and

Donald E. Steele, co-partners, 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 83980 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchasers 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Purchasers shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If purchasers 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.

10. Concurrently with or prior to the transfer authorized in paragraph 1, purchasers shall transfer or cause to have revoked the Cement Contract Carrier Permit which they presently hold; otherwise, the authority granted herein shall be null and void.

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

Dated at San Francisco, California, this 5th day of January, 1977.

Robert Bateman
President
William Aguirre
Vernon L. Stanger
Mark
Commissioners

STANLEY R. BERCKEFELDT AND
DONALD E. STEELE
(Co-partners doing business as
STANDON COMPANY)

Stanley R. Berckefeldt and Donald E. Steele, co-partners, 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 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the Counties of Fresno, Imperial, Inyo, Kern, Los Angeles, Merced, Orange, Riverside, San Bernardino, San Diego, 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 86831, Application 56803.