

Decision No. 88497 FEB 7 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
of: (a) R. Cali & Bro., a corpo-)
ration, to sell, and Frank C.)
Alegre Trucking, Inc., a corpora-)
tion, to purchase a Cement Carrier)
Certificate authorizing service)
to and within the Counties of)
Alameda, Contra Costa, Fresno,)
Mendocino, Merced, Monterey,)
Sacramento, San Francisco, San)
Mateo, Santa Clara, Santa Cruz,)
and Sonoma.)
(b) Frank C. Alegre Trucking,)
Inc., a corporation, to sell, and)
John Wheeler, an individual, doing)
business as Wheeler Trucking, to)
purchase, a portion of a Cement)
Carrier Certificate authorizing)
service to and within the Counties)
of Alameda, Contra Costa, and)
Santa Clara.)

Application No. 57687
(Filed November 17, 1977)

O P I N I O N

The applicants herein request authority for the sale and transfer of cement carrier certificates of public convenience and necessity as follows:

1. Frank C. Alegre Trucking, Inc., a California corporation, to purchase from R. Cali & Bro., a California corporation, the certificate granted to seller by Resolution No. 13825, Sub. 41, dated June 23, 1964 which authorizes operations to and within the twelve Counties of Alameda, Contra Costa, Fresno, Mendocino, Merced, Monterey, Sacramento, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma.

2. John R. Wheeler, an individual, to purchase from Frank C. Alegre Trucking, Inc., that portion of a certificate granted to seller by Decision 86665 dated November 23, 1976 in Application 56715 which authorizes operations to and within the three Counties of Alameda, Contra Costa and Santa Clara. Frank C. Alegre Trucking, Inc., will retain that portion of the certificate it now holds which authorizes service to and within the Counties of San Joaquin and Yolo.

Both of the purchasers presently hold highway carrier permits issued by this Commission. Pursuant to the Purchase Agreements of October 3, 1977 between the parties involved, the purchase prices to be paid by the buyers for the certificated authorities proposed to be sold and transferred to them are \$9,600 to R. Cali & Bro., and \$4,500 to Frank C. Alegre Trucking, Inc., which amounts are payable upon consummation of each individual transaction. The balance sheets of the purchasers show a stockholders' equity of \$296,082 as of June 30, 1977 for Frank C. Alegre Trucking, Inc., and an owner's equity of \$14,723.00 as of August 31, 1977 for John Wheeler.

Each of the sellers participate in cement tariffs published by the Western Motor Tariff Bureau, Inc., Agent, to cover the respective operations under their operating rights proposed to be transferred. The purchasers propose to adopt the same tariffs. Both sellers have submitted a copy of one of their shipping documents as evidence of operations having been performed by each of them during the past year under the certificated authorities they propose to sell and transfer.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. Copies of the application were served by applicants on the California Trucking Association. Notice of the filing of the application was made in the Commission's Daily Calendar of November 18, 1977. No protests to the granting of the application have been received.

After consideration, the Commission finds that each one of 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 certificates of public convenience and necessity, or portion thereof to be transferred.

The order which follows will provide for, in the event the respective transfers are completed, the revocation of the certificates presently held by the sellers and the issuance of a new certificate 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 July 1, 1978, R. Cali & Bro., a California corporation, may sell and transfer the operating rights referred to in the application to Frank C. Alegre Trucking, Inc., a California corporation.

2. On or before July 1, 1978, Frank C. Alegre Trucking, Inc., a California corporation, may sell and transfer a portion of the operating rights specifically referred to in the application to John R. Wheeler, an individual doing business as Wheeler Trucking.

3. Within thirty days after each of the respective transfers, the purchasers shall each file with the Commission a written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer involved.

4. Purchasers shall each amend or reissue the tariffs now on file with the Commission, naming rates and rules governing the respective authorities transferred and granted by this decision to show that each of them 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 respective transfers. The tariff filings shall comply with 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 separate operating authorities granted by this decision.

5. In the event the individual transfers authorized in paragraphs 1 and 2 are completed, then effective concurrently

with the effective date of the tariff filings required by paragraph 4, a certificate of public convenience and necessity is granted to Frank C. Alegre Trucking, Inc., a California corporation, and also to John R. Wheeler, an individual, doing business as Wheeler Trucking authorizing each of them to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A and B, respectively, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted by Resolution No. 13825, Sub. 41, and by Decision 86665 are each revoked effective concurrently with the effective date of the respective tariff filings required by paragraph 4.

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

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

9. Purchasers shall each 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 each make the appropriate tariff filings as required by the General Order.

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

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

Dated at San Francisco, California, this 7th day of FEBRUARY, 1978.

Robert Buttrick

President

William Sproull

Vernon L. Sturgeon

Richard P. Goode

Clare T. DeWitt

Commissioners

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, Fresno, Mendocino, Merced, Monterey, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Sonoma and Yolo, subject to the following restriction:

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 88497, Application 57687.

John R. Wheeler, an individual, 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 and Santa Clara, subject to the following restriction:

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 88497, Application 57687.