

SEG/FS

JAN 30 1979

ORIGINAL

Decision No. 89937

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Fleetway Cement Service, a)
corporation, to sell and of)
Richard N. Ladeira, an individ-)
ual, doing business as Rich N.)
Ladeira Trucking, to purchase)
cement carrier certificates)
authorizing service to and within)
the Counties of Marin, Napa, San)
Francisco and Solano, State of)
California, pursuant to Sections)
851-853 of the California Public)
Utilities Code.)

Application No. 58494
(Filed November 30, 1978)

O P I N I O N

Fleetway Cement Service, a California corporation (seller), seeks authority to sell and transfer and Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking (purchaser), seeks authority to purchase and acquire that portion of a cement carrier certificate authorizing operations to and between all points in the Counties of Marin, Napa, San Francisco and Solano.

The certificate held by the seller was granted by Decision 86665 dated November 23, 1976 in Application 56715 and authorizes the transportation of cement from all points of origin to all points in 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.

Purchaser presently operates as a cement carrier from all points of origin to all points in the Counties of Contra Costa, Merced, Monterey, Sacramento, San Joaquin, Santa Clara and Yolo under a certificate granted by Decision 89033 dated June 27, 1978 in Application 57951. He also operates under radial highway common carrier, livestock carrier and dump truck carrier permits issued under File T-90350.

Pursuant to the Purchase Agreement entered into by the parties on April 15, 1978, the purchase price for the portion of the certificate to be transferred is \$4,000 payable upon consummation of the transfer.

Purchaser's balance sheet of October 31, 1978, filed as Exhibit B of the application, shows a net worth of \$66,334. He operates two tractors, two sets of flatbed semi and pull trailers and two sets of bottom dump semi and pull trailers. Seller and purchaser both participate in Western Motor Tariff Bureau, Inc., Agent tariff publications and the purchaser will adopt the rates applicable to the transportation of cement to and within the Counties of Marin, Napa, San Francisco and Solano. The applicants have submitted a copy of a shipping document evidencing operations under the seller's certificate during the past year.

Copies of the application have been furnished to the principal cement manufacturers in this State and to the California Trucking Association. Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure requiring wide dissemination of the application. Notice of the filing of the application appeared in the Commission's Daily Calendar of December 5, 1978. 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 granted. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Fleetway Cement Service and Richard N. Ladeira and the issuance of in-lieu certificates in appendix form to Fleetway Cement Service, a corporation, and Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking.

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 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 authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Fleetway Cement Service, a California corporation, may sell and transfer the operative rights referred to in the application to Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking. This authorization shall expire if not exercised by September 1, 1979, or within such additional time as may be authorized by the Commission.

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. Applicants 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, certificates of public convenience and necessity are granted to Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, and Fleetway Cement Service, 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 and B attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decisions 89033 and 86665 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants shall comply with the safety rules of 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 their 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.

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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 thirty days after the date hereof.

Dated at San Francisco, California, this 30th day of JANUARY, 1979.

Richard D. Gault
President

Vernon L. Sturgeon

Clair T. Schriber

Commissioner John E. Bryson

Commissioners

Present but not participating.

Commissioner Leonard M. Grimes, Jr.

Present but not participating.

RICHARD N. LADEIRA
(an individual)
doing business as
RICH N. LADEIRA TRUCKING

Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, 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 in the following counties, subject to the following restrictions:

Contra Costa
Marin
Merced
Monterey

Napa
Sacramento
San Francisco
San Joaquin

Santa Clara
Solano
Yolo

RESTRICTIONS:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.
2. Whenever Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, engages other carriers for the transportation of property of Richard N. Ladeira or customers or suppliers of said individual, Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking, shall not pay such other carriers rates and charges less than the rates and charges published in Richard N. Ladeira, an individual, doing business as Rich N. Ladeira Trucking's tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision _____, Application 58494.

Fleetway Cement 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 in the following counties, subject to the following restrictions:

Fresno
Kern
Los Angeles
Monterey

Orange
Riverside
San Bernardino
San Diego

San Luis Obispo
Santa Barbara
Ventura

RESTRICTIONS:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.
2. 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.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision _____, Application 58494.