

Decision No. 89943 JAN 30 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Melvin Santry, Jr. and Ronald)
M. Santry, doing business as)
Santry Farms, to sell and trans-)
fer a certificate of public con-)
venience and necessity autho-)
rizing the transportation of)
Cement to Sola Line, Inc., a)
California corporation.)

Application No. 58427
(Filed October 23, 1978)

O P I N I O N

By their joint application, Melvin Santry, Jr. and Ronald M. Santry, co-partners, doing business as Santry Farms (sellers), seek authority to sell and transfer and Sola Line, Inc., a California corporation (purchaser), seeks authority to purchase and acquire a certificate of public convenience and necessity as a cement carrier and certain highway vehicles. The certificate was granted to the sellers pursuant to Decision 80042 dated May 9, 1972 in Application 53232 and authorizes the transportation of cement from any and all points of origin to all points in the County of Tulare.

Purchaser holds no highway carrier operating authority from this Commission; however, John E. Sola, president and majority stockholder of the corporation, operates as a radial highway common carrier and as an agricultural carrier pursuant to permits issued under File T-110,233. His fictitious business name is Sola Farms. The unaudited balance sheet of the purchaser shows a net worth of \$58,009. Purchaser will operate two units of equipment for the transportation of cement under the certificate to be transferred. The purchase price is \$37,000 for the equipment and \$1,000 for the certificate. The sum of \$32,000 has already been paid by the purchaser and the balance of \$6,000 will be paid upon consummation of the transfer.

Sellers participate in Western Motor Tariff Bureau, Inc., Agent, tariff publications to cover the cement carrier operations proposed to be transferred. Purchaser proposes to adopt such tariffs. Sellers have submitted a copy of a shipping document evidencing operations during the past year under the certificate.

A copy of the application has been mailed to the California Trucking Association and to the principal cement manufacturers in the State of California. Notice of the filing of the application appeared in the Commission's Daily Calendar of October 24, 1978. No protest to the application has been received.

After consideration, the Commission finds that the proposed sale and transfer would not be adverse to the public interest and concludes that the application 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 certificate held by Melvin Santry, Jr. and Ronald M. Santry, co-partners doing business as Santry Farms, and the issuance of a cement certificate in appendix form to Sola Line, Inc., a California corporation.

Purchaser is placed on notice that operating 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 canceled 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 the value of the rights and other assets to be transferred.

O R D E R

IT IS ORDERED that:

1. Melvin Santry, Jr. and Ronald M. Santry, co-partners, doing business as Santry Farms, may sell and transfer the operating rights referred to in the application to Sola Line, Inc., a California corporation. This authorization shall expire if not exercised by September 30, 1979, or within such additional time as may be granted by the Commission.

2. Within thirty days after the transfer, purchaser shall file with the Commission a written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission naming rates and rules governing the cement carrier operations transferred to show that it has adopted or established, as its own, such 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 date of 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 Sola Lines, Inc. authorizing it 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 of this decision.

5. The certificate granted by Decision 80042 dated May 9, 1972 in Application 53232 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser 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. Purchaser shall maintain its 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. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If it elects not to transport collect on delivery shipments, then it shall make the appropriate tariff filings as required by the General Order.

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. Howell
President
Vernon L. Sturgeon
Clara T. DeBenedictis

Commissioners

Commissioner John E. Bryson
present but not participating

Commissioner Leonard M. Grimes Jr.
present but not participating

Sola Line, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate 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 within the County of Tulare, subject to the following restrictions.

Restrictions:

1. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.
2. Whenever Sola Line, Inc. engages other carriers for the transportation of the property of Sola Line, Inc. or John E. Sola or Sola Farms, or customers, suppliers, subsidiaries or affiliates of said corporation or individual or company, Sola Line, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Sola Line, Inc.'s tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 89943, Application 58427.