

THP/FS

Decision No. 90078 MAR 13 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of ANGELO PINTO, JR., an indi-)
vidual, to sell and transfer a)
certificate of public convenience)
and necessity to transport cement)
to points in Yolo County, to)
CURTIS C. STEWARD, doing business)
as CURT STEWARD TRUCKING.)

Application No. 58578
(Filed January 5, 1979)

O P I N I O N

Angelo Pinto, Jr., an individual (seller) seeks authority to sell and transfer and Curtis C. Steward, an individual (purchaser) requests authority to purchase and acquire a cement carrier certificate of public convenience and necessity.

The certificate was granted by Resolution 13825, Sub 5, dated June 23, 1964 and authorizes transportation to and between all points in the County of Yolo.

Purchaser presently holds permitted authority from this Commission as a radial highway common carrier and a dump truck carrier under File T-120,733.

Pursuant to the Agreement of December 12, 1978 between the parties, the purchase price for the certificate is \$3,000 payable in cash upon consummation of the transaction.

Purchaser's balance sheet of December 31, 1978 shows a net worth of \$134,000 of which \$66,300 is in the form of cash and bank and savings and loan deposits. His profit and loss statement for the first eleven months of 1978 indicates a profit of \$22,296 and he operates a fleet of two highway vehicles which will be increased as needed.

According to the application, seller has made a business decision to discontinue his operation as a transporter of cement in California. Purchaser is an experienced individual in this

field of transportation having the necessary financial resources, equipment and knowledge to conduct operations under the authority sought to be acquired herein. The public will not be adversely affected by the approval of this transfer and all customers having been previously served by seller within Yolo County will continue to be served by purchaser.

Seller participates in Western Motor Tariff Bureau, Agent, tariff publications for rates to cover operations under the certificate to be transferred. Purchaser proposes to adopt the tariffs. Applicants have submitted a copy of a shipping document evidencing operations during the past year under the certificate to be transferred.

Copies of the application were served on the principal cement manufacturers in the State of California and on the California Trucking Association. The applicants request relief 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 appeared in the Commission's Daily Calendar of January 9, 1979. 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 should be granted. The Commission further concludes that the requested relief from the requirements of its Rules of Practice and Procedure should also 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 presently held by Angelo Pinto, Jr., and the issuance of an in-lieu certificate in appendix form to Curtis C. Steward.

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 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 granted. 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. Angelo Pinto, Jr., may sell and transfer the operative rights referred to in the application to Curtis C. Steward. 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, 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. 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 he has adopted or established, as his 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 by 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 Curtis C. Steward, an individual, authorizing him 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 Resolution 13825, Sub 5 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchaser shall maintain his 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 his 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 purchaser elects not to transport collect on delivery shipments, he 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.

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

Dated at San Francisco, California, this 13th day of MARCH, 1979.

John A. Bryan
President
George L. Steyer
Richard D. Howell
Walter J. DeWick
Donald W. Pruitt
Commissioners

CURTIS C. STEWARD
(an individual
doing business as
Curt Steward Trucking)

Curtis C. Steward, 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 in the County of 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 A)

Issued by California Public Utilities Commission.

Decision 90078, Application 58578.