

Decision No. 90119 ; MAR 27 1979**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of (a) Ellis D. )  
 Arnett and Alan N. Arnett, A )  
 Partnership, to transfer its )  
 Cement Carrier Certificate of )  
 Public Convenience and Necessity; )  
 and (b) Arnie Enterprises, Inc., ) Application No. 58528  
 a California Corporation, to ) (Filed December 13, 1978)  
 acquire said Certificate. (Public )  
 Utilities Code Section 214.1.) )

O P I N I O N

Ellis D. Arnett and Alan N. Arnett, father and son (transferors), seek authority to transfer and Arnie Enterprises, Inc., (transferee) requests authority to acquire a cement carrier certificate of public convenience and necessity. The certificate was granted by Resolution No. 13825, Sub 50, dated June 23, 1964 and authorizes transportation to and within the Counties of Fresno, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino and San Diego.

Transferee is a newly organized California corporation. Its balance sheet of September 23, 1978 indicates stockholder's equity of \$58,862 which is represented by 1,000 shares of stock held by Alan N. Arnett, one of the transferors.

The transfer of the certificate is to be made to the corporation without consideration. In effect a father is releasing the certificate to a corporation wholly owned by his son.

Transferors participate in Western Motor Tariff Bureau, Inc., tariffs to cover the operations performed under the certificate to be transferred. Transferee proposes to adopt such tariffs.

Transferors have submitted a copy of a freight bill as evidence of operations performed under the certificated authority during the past year.

Copies of the application were served by applicants on the principal cement mills in California and the California Trucking Association. Applicants request authority to deviate 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 December 15, 1978. No protests to the application have been received.

It can be seen with certainty that there is no possibility that the grant of the authority requested will have a significant impact on the environment.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it 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 held by Ellis D. Arnett and Alan A. Arnett and the issuance of a cement carrier certificate, in appendix form, to Arnie Enterprises, Inc., a California corporation.

Transferee 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 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 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 to be transferred.

O R D E R

IT IS ORDERED that:

1. Ellis D. Arnett and Alan N. Arnett may transfer the operative rights referred to in the application to Arnie Enterprises, Inc., a California corporation. 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, Arnie Enterprises, Inc., 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. Transferee shall amend or reissue the tariffs on file with the Commission naming rates and rules governing the common 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 Arnie Enterprises, 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 of public convenience and necessity granted by Resolution No. 13825, Sub 50, is revoked effective concurrently with the effective date of the tariff filings required by Paragraph 3.

6. Transferee 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. Transferee 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Transferee 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, it 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.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of MARCH, 1979.

John E. Guyton  
President

Clayton T. Delight  
Samuel J. Jensen  
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

Arnie Enterprises, 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 within the Counties of Fresno, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino and San Diego, 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.

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