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Decision No. 90561 JUL 17 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LINCOLN A. RICHMOND, )  
a Sole Proprietor, doing business as )  
LINK RICHMOND & SONS, and of LINK )  
RICHMOND & SONS, INC., a California )  
corporation, for an ORDER AUTHORIZING )  
TRANSFER OF ALL ASSETS AND LIABIL- )  
ITIES, including the CERTIFICATE of )  
PUBLIC CONVENIENCE and NECESSITY, of )  
the former sole proprietorship to )  
the latter California corporation. )

Application No. 58796  
(Filed April 6, 1979)

O P I N I O N

Lincoln A. Richmond (seller), a sole proprietor, doing business as Link Richmond & Sons, seeks authority to sell and transfer all company assets and liabilities, and Link Richmond & Sons, Inc. (purchaser), a California corporation, requests authority to purchase and acquire such assets and liabilities, including a cement carrier certificate of public convenience and necessity. The certificate was granted by Resolution No. 13821, Sub 62, dated June 23, 1964, and authorizes transportation to and within the counties of Santa Barbara, Ventura, Los Angeles, Orange, and San Diego.

Purchaser is a newly organized California corporation. Its Articles of Incorporation authorize the issuance of 2,000 shares of common capital stock without designating such stock as either having par or no par value. Purchaser proposes to issue 2,000 of such shares to seller in return for the transfer of all assets and liabilities of the proprietorship known as Link Richmond & Sons. Seller's balance sheet of December 31, 1978, which reflect the assets and liabilities transferred to

purchaser on January 1, 1979 shows assets with a book value of \$598,328.73, liabilities of \$504,465.58, and net worth of \$93,863.25. Stated value of the 2,000 shares of common stock is \$90,000, or \$45 per share.

Purchaser has already obtained transfer to it of seller's radial highway common carrier, highway contract carrier, and dump truck carrier permits, and has applied for conversion of its radial common carrier permit to a highway common carrier permit. Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariff publications for rates to cover operations under the certificate to be transferred. Purchaser proposes to adopt the tariffs.

The applicants have submitted copies of a freight bill and Bill of Lading evidencing operations under the seller's certificate during the past year.

Copies of the application have been furnished to the principal cement manufacturers in California, the California Trucking Association, and the Western Motor Tariff Bureau, Inc. 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 April 11, 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 authorized. A public hearing is not necessary. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate held by Lincoln A.

Richmond, doing business as Link Richmond & Sons, and the issuance of a cement carrier certificate in appendix form to Link Richmond & Sons, Inc., a California corporation.

The proposed security issue is for proper purposes and the money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

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 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 and properties to be transferred.

O R D E R

IT IS ORDERED that:

1. Lincoln A. Richmond, a sole proprietor, doing business as Link Richmond & Sons, may sell and transfer the operative rights and other assets referred to in the application to Link Richards & Sons, Inc. (purchaser), a California corporation. This authorization shall expire if not exercised by December 31, 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 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 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 Ordering Paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by Ordering Paragraph 3, a certificate of public convenience and necessity is granted to Link Richmond & Sons, 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. 13821, Sub 62, is revoked effective concurrently with the effective date of the tariff filings required by Ordering 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 March 31 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, 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.

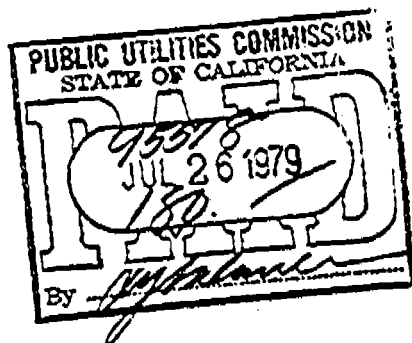
10. Purchaser, on or after the effective date of this order and on or before December 31, 1979, for the purposes specified in this proceeding, may issue not exceeding a total of 2,000 shares of its common stock having a stated value of \$45 per share to Lincoln A. Richmond, an individual.

11. Purchaser shall file with the Commission a report, or reports, as required by General Order 24-Series, which general order, in so far as applicable, is hereby made a part of this order.

12. The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$180. In other respects the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 17th day of JULY, 1979.

John E. Burns  
President  
George L. Sturgeon  
Richard D. Hoeller  
Clair J. DeBriak  
Samuel J. Jernin  
Commissioners



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Appendix A

LINK RICHMOND & SONS, INC.  
(a California corporation)

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Link Richmond & Sons, 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 described in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places in the Counties of Los Angeles, Orange, San Diego, Santa Barbara, and Ventura, 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 90561, Application 58796.