

ORIGINAL

NOV 30 1979

Decision No. 91078

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FRANK C. ALEGRE TRUCKING, INC., a California corporation, for a cement carrier's certificate, authorizing service to and within the Counties of Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Stanislaus, Sutter, Tuolumne, and Yuba.

Application No. 58950
(Filed May 16, 1979)

O P I N I O N

Frank C. Alegre Trucking, Inc. (Alegre) seeks a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the California Public Utilities Code, authorizing the transportation of cement to and within the counties of Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Stanislaus, Sutter, Tuolumne, and Yuba. A daily on-call service to and within the points sought in the application is proposed.

Alegre currently holds a cement carrier's certificate originally issued in D.86665, dated November 23, 1976, in A.56715 and reissued in D.88497, dated February 7, 1978, in A.57687. Said certificate authorizes Alegre to conduct operations as a cement carrier in the counties of Alameda, Contra Costa, Fresno, Mendocino, Merced, Monterey, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Sonoma, and Yolo. In addition to the cement carrier's certificate Alegre holds a permit as a dump truck carrier under File No. T-104128 for the transportation of property between points in the State of California.

As a cement carrier, Alegre participates in rates set forth in Western Motor Tariff Bureau No. 17 (Cal. PUC No. 21), M. J. Nicolaus, issuing officer. Alegre will publish additional rates in WMTB-17 when and if the authority sought is granted.

Alegre alleges that there are over 80 cement carriers and cement contract carriers authorized to serve one or more of the counties involved herein. It is alleged that the cost of reproducing and mailing copies of the application to each of the cement carriers and cement contract carriers would involve considerable expense. Therefore, Alegre forwarded a copy of the application to the principal offices of the California Trucking Association as set forth in Exhibit "C", stating that this will give adequate notice to said carriers. It is requested, pursuant to Rule No. 87, in order to provide just, speedy, and inexpensive determination of the issues presented, that the requirement of service on all competing carriers set forth in Rule 37(a) of our Rules of Practice and Procedure be waived.

In support of its application, Alegre points out that it has had approximately eleven years of experience in for-hire transportation, consisting primarily of the movement of rock, sand and gravel, and, as of 1976, in the transportation of cement. The cement carrier authorities sought herein will substantially increase its revenues through the better utilization of equipment by providing for a more balanced operation, thus reducing empty back-haul miles currently being incurred.

Alegre alleges that the granting of its application will have no significant effect upon the environment and that this matter should be decided ex parte.

Exhibit "A" to the application contains the financial statements of Alegre. The balance sheet of September 30, 1978, shows a current ratio of 1.04 and a stockholders' equity of \$375,990.51, of which \$250,990.51 are retained earnings. For the nine months ended September 30, 1978, the statement of earnings shows net earnings of \$69,234.26.

Exhibit "B" to the application sets forth the equipment operated by Alegre. This exhibit lists 14 tractors, 5 trailers, 25 sets of trailers, 14 pickup trucks and automobiles, and 16 pieces of miscellaneous equipment.

Alegre states that it is a California corporation and that a certified copy of its Articles of Incorporation are on file with the Commission under File No. T-104128.

Findings of Fact

1. Notice of the filing of this application was published in the Commission's Daily Calendar on June 25, 1979.

2. Service of the application was made upon California Trucking Association.

3. No protests have been filed.

4. Pursuant to Rule 87 of our Rules of Practice and Procedure, Alegre requests relief from the service requirements of our Rule 37(a).

5. Alegre has the experience, financial capability, and equipment to perform the service in the areas for which authority is sought.

6. The granting of the sought-for authority will enable Alegre to provide a more balanced and efficient operation by reducing empty back-haul miles currently being incurred.

7. It can be seen with certainty that the granting of the application will have no possibility of significant effect upon the environment.

8. Public convenience and necessity require granting the sought-for authority.

Conclusions of Law

1. The notice requirement of Rule 37(a) should be waived.

2. A certificate of public convenience and necessity should be granted to Alegre as set forth in Appendix A attached hereto.

Frank C. Alegre Trucking, Inc. 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Frank C. Alegre Trucking, Inc., a corporation, 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.
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in a cancellation of the authority.
 - (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
 - (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
 - (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order, on not less than thirty days' notice to the Commission and to the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.

- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117-Series.
- (e) Applicant 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.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 88497, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated NOV 30 1979, at San Francisco, California.

John E. Snyon
President
James L. Satterly
Michael J. Wood
Charles T. DeLoach
James M. [unclear]
Commissioners

Frank C. Alegre Trucking, 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 and places in the following counties subject to the following restriction:

Alameda	Sacramento
Alpine	San Francisco
Amador	San Joaquin
Calaveras	San Mateo
Contra Costa	Santa Clara
El Dorado	Santa Cruz
Fresno	Sonoma
Mendocino	Stanislaus
Merced	Sutter
Monterey	Tuolumne
Nevada	Yolo
Placer	Yuba

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 91078, Application 58950.