

Decision 93861

DEC 15 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) DONALD R. HARTNETT, an individual doing business as HARTNETT TRUCK COMPANY to sell, and IRON HORSE EQUIPMENT CORPORATION, a California corporation, to purchase, a cement carrier certificate authorizing service to and within the Counties of Butte, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Ventura, and Yolo in the State of California.

(b) DONALD R. HARTNETT, an individual doing business as HARTNETT TRUCK COMPANY to sell, and IRON HORSE EQUIPMENT CORPORATION, a California corporation, to purchase, the motor vehicle equipment of HARTNETT TRUCK COMPANY.

(c) DONALD R. HARTNETT, an individual doing business as HARTNETT TRUCK COMPANY to sell, and ROGER R. RUST, an individual, JAMES P. SANDOVAL, an individual, and JAMES W. GOLSON, an individual, to purchase real property located at 17909 Adelanto Road, Adelanto, California.

(d) IRON HORSE EQUIPMENT CORPORATION, a California corporation, to sell and JOSEPH D. VIGNA, an individual, doing business as JOE VIGNA TRUCKING, to purchase that portion of a cement carrier certificate authorizing service to and within the County of Orange.

(e) IRON HORSE EQUIPMENT CORPORATION, a California corporation, to sell and BKRS, INC., a California corporation, to purchase that portion of a cement carrier certificate authorizing service to and within the County of Los Angeles.

(f) IRON HORSE EQUIPMENT CORPORATION, a California corporation, to issue to DONALD R. HARTNETT a promissory note payable at a period of more than twelve months.

Application 60405
 (Filed March 30, 1981;
 amended June 25, 1981)

O P I N I O N

This application, as amended, involves seven different applicants seeking authorization for the sale of 2 cement carrier certificates, motor vehicle equipment, and real property. Authority is also sought for the issuance of a promissory note.

The applicants are:

1. Donald R. Hartnett (Hartnett), an individual, doing business as Hartnett Truck Company. Hartnett holds a cement carrier certificate, which was issued by Decision (D.)86339 dated August 31, 1976 in Application (A.)56559, authorizing transportation to and within the Counties of Butte, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Ventura, and Yolo.
Hartnett also holds other highway carrier authority that is not involved.
2. Iron Horse Equipment Corporation (Iron Horse), a California corporation. Iron Horse holds a cement carrier certificate, which was issued by D.91135 dated December 18, 1979, in A.59056, authorizing transportation to and within the Counties of Los Angeles and Orange.
3. Joseph D. Vigna (Vigna), an individual, doing business as Joe Vigna Trucking. Vigna holds a cement carrier certificate, which was issued by Resolution 18055 dated August 28, 1979, authorizing transportation to and within Los Angeles County.
4. BKRS, INC. (BKRS), a California corporation. BKRS presently does not hold any operating authority from this Commission.
5. Roger R. Rust (Rust), James P. Sandoval (Sandoval), and James W. Golson (Golson), individuals who are the sole shareholders and participants in the management of Iron Horse.

The various authorizations sought are:

1. Hartnett to sell his cement carrier certificate and all of his motor vehicle equipment consisting of 5 tractors and 10 trailers to Iron Horse. The consideration for the sale of the certificate and motor vehicle equipment is \$100,000 payable as follows: \$50,000 as a cash down payment, an additional cash payment upon transfer as approved by the Commission, and the \$34,000 balance to be paid in 2 payments of \$17,000 on January 1, 1982 and January 1, 1983 with interest at 10% per annum on the unpaid principal. Iron Horse intends to issue a promissory note to Hartnett in the amount of \$34,000. This application also seeks authority for the issuance of the note.
2. Hartnett to sell his real property located at 17909 Adelanto Road, Adelanto, to Rust, Sandoval, and Golson. The property is used by Hartnett as a parking and repair facility. The terms of the sale are set forth in Exhibit B attached to the application. Rust, Sandoval, and Golson will lease the property to Iron Horse. The lease will entitle Iron Horse to full use of the property.
3. Iron Horse to sell its cement carrier certificate as follows:
 - a. That portion authorizing transportation to and within Orange County to Vigna, for the sum of \$5,000 as follows: \$2,000 cash down payment and the \$3,000 balance to be paid upon consummation of the sale.
 - b. That portion authorizing transportation to and within Los Angeles County to BKRS, for the sum of \$4,000 as follows: \$2,000 cash

down payment and the \$2,000 balance to be paid upon consummation of the sale.

The application alleges that:

1. Hartnett desires to withdraw from the trucking business and believes that the conditions of sale to Iron Horse, including the purchase price, are just, fair and reasonable, and warrant entering into the transaction.
2. Iron Horse is fully qualified to expand its operations to include the additional counties encompassed by the Hartnett certificate because of its present operations and the equipment which it owns and operates.
3. Vigna maintains his office and shop in Orange County, and believes that the additional service authorization will be helpful in making current operations more efficient in that existing customers require service between Los Angeles and Orange County. Vigna has conducted operations since 1964 and is thoroughly familiar with the operations and requirements with respect to cement transportation. Vigna uses one truck which is a 1951 Peterbilt straight truck which has been completely overhauled numerous times, most recently in 1979. Vigna also owns and operates a 1976 Trailmobile Van trailer and a reconditioned 1963 Highway Trailer. Vigna believes the purchase price is just, fair, and reasonable and anticipates current demand for service will justify the cost.
4. BKRS believes that its initial \$15,000 will be sufficient capitalization for the proposed service. This is justified by the fact that the entire purchase price for the described portion of the Iron Horse certificate will be the sum of \$4,000.00. In

addition, BKRS proposes to use leased motor vehicle equipment in lieu of purchasing the same. Therefore, BKRS will retain \$11,000 in cash as working capital which should be adequate to establish and maintain operations for a period of at least 6 months.

BKRS will conduct operations under the management of Warren Gibbs, its president, and Kendall Stone, its vice president and general manager. Gibbs is the president of California Tile, Inc., a major user of cement and, therefore, is fully experienced in the transportation and handling of this product. Gibbs has had over 12 years of experience in managing the business.

Kendall Stone will act as general manager and supervise the day-to-day operations of the company. Stone has had 10 years experience in the trucking business holding numerous positions with Hartwick & Hand, a motor carrier, performing such functions as driver, dispatching, billing, and rates.

The application and amendment were served on the California Trucking Association. Notice of their filings appeared on the Commission's Daily Calendars of April 1 and June 29, 1981. No protests have been received.

Findings of Fact

1. Hartnett desires to withdraw from the trucking business and wishes to sell his cement carrier certificate, motor vehicle equipment, and real property associated with the transportation business.
2. Iron Horse desires to purchase Hartnett's cement carrier certificate and motor vehicle equipment.
3. The stockholders of Iron Horse desire to purchase the real property associated with Hartnett's trucking business and, if authorized, will lease it to Iron Horse for its transportation business.

4. Iron Horse desires to sell its cement carrier certificate because that authorized transportation is also authorized by the cement carrier certificate of Hartnett.

5. Vigna desires to purchase that portion of Iron Horse's cement carrier certificate authorizing transportation to and within Orange County.

6. BKRS desires to purchase that portion of Iron Horse's cement carrier certificate authorizing transportation to and within Los Angeles County.

7. The proposed issuance of a promissory note by Iron Horse to Hartnett is reasonable.

8. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.

Conclusion of Law

The proposed transfers are in the public interest and should be authorized. A public hearing is not necessary. With the exception of the authority to issue an evidence of indebtedness by Iron Horse Equipment Corporation which will become effective on the date of payment of the \$64 fee set by Public Utilities (PU) Code § 1904(b), this order should be effective on the date of signature because applicants desire to complete the sales and transfers as soon as possible.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Donald R. Hartnett may sell the cement carrier certificate granted by D.86339 and the motor vehicle equipment set forth in Exhibit B (Exhibit A thereto) attached to the application to Iron Horse Equipment Corporation.

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2. Donald R. Hartnett may sell the real property set forth in the application to Roger R. Rust, James P. Sandoval, and James W. Golson.

3. Iron Horse Equipment Corporation may sell the cement carrier certificate granted by D.91135 as follows:

- a. That portion authorizing transportation to and within Orange County to Joseph D. Vigna.
- b. That portion authorizing transportation to and within Los Angeles County to BKRS, INC.

4. On or after the effective date of this order Iron Horse Equipment Corporation may issue a promissory note not to exceed \$34,000 payable to Donald R. Hartnett.

5. Iron Horse Equipment Corporation, Joseph D. Vigna, and BKRS, INC. shall each:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue their respective seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 100, 104, and 117, and the California Highway Patrol safety rules.
- d. File an annual report of their respective seller's operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts. ✓

- f. File an annual report by April 30 of each year.
- g. Comply with General Order Series 84 (collect-on-delivery shipments). If an election is made not to transport collect-on-delivery shipments, the tariff provision required by that General Order shall be filed.

6. When each transfer is completed, and on the effective date of their respective tariffs, certificates of public convenience and necessity, authorizing operations as cement carriers as defined in PU Code § 214.1, are granted to Iron Horse Equipment Corporation, Joseph D. Vigna, and BKRS, INC. authorizing them to operate between the points set forth in Appendixes A, B, and C, respectively.

7. The certificates of public convenience and necessity granted by D.86339 and 91135 and Resolution 18055, GCC 28, are revoked on the effective date of the tariffs required by Ordering Paragraph 5.b.

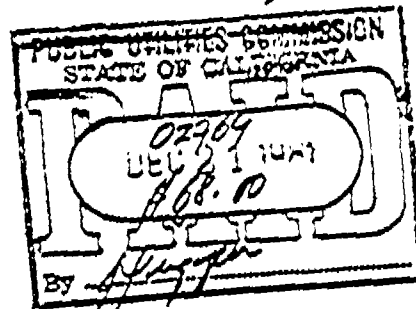
The authority granted by Iron Horse Equipment Corporation to issue an evidence of indebtedness will become effective when the issuer (Iron Horse Equipment Corporation) pays \$68, set by PU Code § 1904(b). In all other respects this order is effective today.

Dated DEC 15 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Joseph E. Bodovitz
Joseph E. Bodovitz, Executive Director



Appendix A

IRON HORSE EQUIPMENT CORPORATION
(a California corporation)

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Iron Horse Equipment Corporation, 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 PU Code from any and all points of origin to all points in the following counties, subject to the following restrictions:

Butte	San Bernardino
Kern	San Diego
Kings	San Luis Obispo
Los Angeles	Santa Barbara
Mono	Tulare
Orange	Ventura
Riverside	Yolo

RESTRICTIONS:

1. Whenever Iron Horse Equipment Corporation engages other carriers for the transportation of property of Iron Horse Equipment Corporation or James W. Golson, or Roger R. Rust or James P. Sandoval, or customers or suppliers of that corporation, or individuals, Iron Horse Equipment Corporation shall not pay those other carriers rates and charges less than the rates and charges published in Iron Horse Equipment Corporation's tariffs on file with the Commission.

Issued by California Public Utilities Commission.

Decision 93861, Application 60405.

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Appendix A

IRON HORSE EQUIPMENT CORPORATION
(a California corporation)

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2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX A)

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Decision 93861, Application 60405.

Joseph D. Vigna, an individual, 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 PU Code, from any and all points of origin to all points in the Counties of Los Angeles and Orange 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 B)

Issued by California Public Utilities Commission.

Decision 93861, Application 60405.

BKRS, Inc., a California corporation, 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 PU Code, from any and all points of origin, to all points in the County of Los Angeles, 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 BKRS, Inc., engages other carriers for the transportation of property of BKRS, Inc., or California Tile, Inc., or Warren Gibbs, or customers or suppliers of those corporations or individuals, BKRS, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in BKRS, INC's, tariffs on file with the Commission.

(END OF APPENDIX C)

Issued by California Public Utilities Commission.

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