

Decision No. 88803 MAY 2 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOSEPH PURITZ )  
 doing business as B. PURITZ OIL )  
 CO., and B. PURITZ OIL CO., INC., )  
 a corporation, to transfer a )  
 petroleum irregular route carrier)

Application No. 57805  
 Filed January 17, 1978

O P I N I O N

By this application, Joseph Puritz, an individual doing business as B. Puritz Oil Co. (seller) seeks authority to transfer and B. Puritz Oil Co., Inc., a California corporation (purchaser) requests authority to purchase and acquire a petroleum irregular route carrier certificate.

The certificate was granted by Decision 79184 dated September 28, 1971 in Application 52831 and authorizes the transportation of petroleum and petroleum products in tank equipment between all points and places in thirty-seven counties in the State of California. The certificate is the only operating authority held by this carrier.

On or about December 14, 1971, Joseph Puritz assigned, transferred and set over to B. Puritz Oil Co., Inc., a California corporation, all of the assets of Joseph Puritz, an individual, doing business as B. Puritz Oil Co., a sole proprietorship, except the petroleum irregular route carrier certificate. The consideration for that transaction was the transfer to Joseph Puritz, an individual, of 1000 shares of capital stock of B. Puritz Oil Co., Inc., having a par value of \$10 each. The corporation also issued a 10-year promissory note in the amount of \$7,424.25 payable to Joseph Puritz, bearing interest at the rate of 7% per annum.

Seller alleges that he was not informed in December, 1971 by his legal counsel of the necessity of transferring the certificate to the corporation by application to the Commission. The transfer of assets referred to in the preceding paragraph also required Commission authorization under Section 851 of the Public Utilities Code.

Seller is a party to Pacific Coast Tariff Bureau Inc., Agent, tariff publications. Purchaser proposes to adopt the tariffs. A copy of the application has been forwarded to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of January 18, 1978. The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. The relief is requested in order to acquire just, speedy, and inexpensive determination of the issues presented. In support of the application, the applicants allege that the transaction will have no adverse effect on the shipping public or any other carriers. No protests to the application have been received.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue and promissory note are for a proper purpose.
3. The money, property or labor procured or paid for by the stock and the promissory note, herein authorized, are reasonably required for the purposes specified herein, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

The Commission concludes that the application should 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 of public convenience and necessity presently held by Joseph Puritz, an individual doing business as B. Puritz Oil Co., and the issuance of a certificate in appendix form to B. Puritz Oil Co., Inc., a California corporation. The certificate will include an alter ego restriction to reflect the "buy and sell" activity of the corporation, as set forth in Paragraph II(a) of its Articles of Incorporation filed as Exhibit A of the application.

The authorization granted shall not be construed as a finding of value of the rights authorized to be transferred.

The applicant 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 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 cancelled 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. Joseph Puritz, an individual, doing business as B. Puritz Oil Co. may sell and transfer the operating rights referred to in the application to B. Puritz Oil Co., Inc., a California corporation. This authorization shall expire if not exercised by December 31, 1978 or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer the 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 common carrier operations transferred to show that it has adopted or established, as its 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 80-Series. Failure to comply with the provisions of General Order 80-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 B. Puritz Oil Co., Inc., a California corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, in the area set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 79184 is revoked effective concurrently with the effective date of the tariff filings required by 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 April 30 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 purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. B. Puritz Oil Co., Inc., for the purposes specified in this proceeding has authority to issue not to exceed 1000 shares of its capital stock at a par value of \$10 per share to Joseph Puritz, an individual.

10. B. Puritz Oil Co., Inc., has authority to issue a promissory note in the principal amount of \$7,424.25 to Joseph Puritz, an individual, as consideration for value received, which note shall be in substantially the same form as Exhibit C to the application.

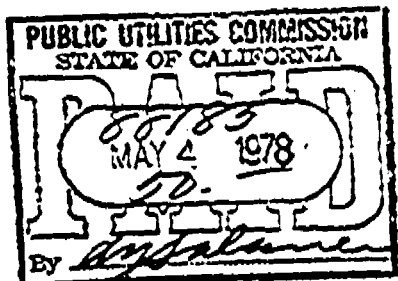
11. B. Puritz Oil Co., Inc., shall file with the Commission a report or reports as required by General Order 24-B, which order, insofar as applicable, is hereby made a part of this order.

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12. Applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

13. The authority granted in this order to issue stock and a promissory note will become effective when B. Puritz Oil Co., Inc. has paid the minimum fee prescribed in Section 1904.1 of the Public Utilities Code which fee is \$50.00. In all other respects, the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 2nd day of MAY, 1978.



Robert Bateman  
President  
William Lyons Jr.  
Virginia L. Stinson  
Robert D. Givels  
Clair T. DeLoach  
Commissioners

B. Puritz Oil Co., Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code for the transportation of petroleum and petroleum products in bulk in tank trucks or tank trailers between all points and places within the counties of:

Alameda	Merced	Shasta
Butte	Monterey	Sierra
Colusa	Napa	Siskiyou
Contra Costa	Placer	Solano
El Dorado	Plumas	Sonoma
Fresno	Sacramento	Stanislaus
Glenn	San Benito	Sutter
Kern	San Francisco	Tehama
Kings	San Joaquin	Tulare
Lake	San Luis Obispo	Yolo
Lassen	San Mateo	Yuba
Madera	Santa Clara	
Marin	Santa Cruz	

Restriction: This certificate of public convenience and necessity is issued subject to obtaining and maintaining a valid registration certificate as a liquid waste hauler from the State Water Resources Control Board.

Restriction: Whenever B. Puritz Oil Co., Inc., engages other carriers for the transportation of the property of B. Puritz Oil Co., Inc., or customers or suppliers of said corporation, B. Puritz Oil Co., Inc., shall not pay such other carriers rates and charges less than the rates and charges published in B. Puritz Oil Co., Inc.'s tariffs on file with this Commission.

END OF APPENDIX A

Issued by California Public Utilities Commission.

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