

Decision No. 89607

OCT 31 1978

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of STANDARD SERVICE CORPORATION )  
a California corporation to trans- )  
fer, and STANDARD SERVICE COMPANY, )  
a California limited partnership, )  
to acquire, a certificate to )  
operate as a cement carrier. )

Application No. 58253  
(Filed July 24, 1978)

O P I N I O N

Standard Service Corporation, a California corporation (transferor), seeks authority to sell and transfer and Standard Concrete Material, Inc., a California corporation, general partner, and David L. Horowitz, Andrew R. Horowitz and Tom W. Horowitz, limited partners (transferees), doing business as Standard Service Company, seek authority to purchase and acquire a cement carrier certificate.

The certificate was granted to the transferor pursuant to Decision 83606 dated October 16, 1974 in Application 46382 and authorizes operations as a cement carrier from any and all points of origin to all points in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura.

The transferees presently hold permitted authority from this Commission as a radial highway common carrier and a dump truck carrier under File No. T-123,657.

Transferor is in the process of liquidating and transferring its operating assets to the transferees. Its management desires to benefit from certain tax advantages which are present when the business is conducted as a limited partnership. The transaction essentially constitutes a reorganization of the business. The owners remain the same. No monetary purchase price is involved in the transaction. All of the transferor's outstanding stock is owned equally by David L. Horowitz, Andrew R. Horowitz and Tom W. Horowitz.

The transferees' balance sheet, dated April 30, 1978, filed as Exhibit C of the application, shows a net worth of \$215,917.05. They operate ten units of power equipment and twenty-two units of trailer equipment. A list of the equipment is filed as Exhibit F to the application. Transferor participates in Western Motor Tariff Bureau, Agent, tariff publications which transferees propose to adopt. Applicants have submitted a copy of a shipping document evidencing operations, under the certificate to be transferred, during the past year.

Copies of the application were served on the principal cement manufacturers in the State of California and on the California Trucking Association. The applicants request relief 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 appeared in the Commission's Daily Calendar of July 27, 1978. 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 granted. The Commission further concludes that the requested relief from the requirements of its Rules of Practice and Procedure should also 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 presently held by Standard Service Corporation and the issuance of an in-lieu certificate in appendix form to Standard Concrete Material Inc., general partner, and David L. Horowitz, Andrew R. Horowitz, and Tom W. Horowitz, limited partners, doing business as Standard Service Company, a limited partnership. The certificate will contain a standard alter ego restriction against the following entities

which it is alleged are affiliated with the general and limited partners by reason of common ownership.

F. C. Horowitz Enterprises, Inc.  
Humble Transport Co.  
Standard Concrete Material, Inc.  
Standard Ready-Mix Concrete, Inc.  
Standard Service Company  
The Horowitz Brothers Trust

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

O R D E R

IT IS ORDERED that:

1. Standard Service Corporation, a California corporation, may sell and transfer the operative rights referred to in the application to Standard Concrete Material, Inc., a California corporation, general partner, and David L. Horowitz, Andrew R. Horowitz, and Tom W. Horowitz, limited partners, doing business as Standard Service Company, a limited partnership. This authorization shall expire if not exercised by April 30, 1979, or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer, the transferees 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. Transferees shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established,

as their 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 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 by 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 Standard Concrete Materials, Inc., a California corporation, general partner, and David L. Horowitz, Andrew R. Horowitz and Tom W. Horowitz, limited partners, doing business as Standard Service Company, a limited partnership, authorizing them 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 attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 83606 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order 100-Series.

7. Transferees shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Transferees shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If transferees elect not to transport collect on delivery shipments, they 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 31st day of OCTOBER, 1978.

Robert Batimain  
President  
William J. ...  
Vernon L. ...  
Robert D. ...  
Clair T. ...  
Commissioners

(a limited partnership)  
STANDARD CONCRETE MATERIAL, INC.,  
(a California corporation, general partner and  
David L. Horowitz, Andrew R. Horowitz,  
and Tom W. Horowitz, limited partners)

Standard Concrete Material, Inc., a California corporation, general partner, and David L. Horowitz, Andrew R. Horowitz, and Tom W. Horowitz, limited partners, doing business as Standard Service Company, a limited partnership, 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 Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura, subject to the following restrictions:

1. Whenever Standard Service Company engages other carriers for the transportation of the property of F. C. Horowitz Enterprises, Inc.; Humble Transport Co.; Standard Ready-Mix Concrete, Inc.; Standard Concrete Material, Inc., general partner, David L. Horowitz, Andrew R. Horowitz, Tom W. Horowitz, limited partners, doing business as Standard Service Company; David L. Horowitz; Andrew R. Horowitz; Tom W. Horowitz; The Horowitz Brothers Trust; or subsidiaries, affiliates or customers or suppliers of said corporations, limited partnership, individuals, or trust, Standard Service Company shall not pay such other carriers rates and charges less than the rates and charges published in its tariffs on file with this Commission.
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)

Issued by California Public Utilities Commission.

Decision 89607, Application 58253.