

Decision No. 89738 DEC 12 1978

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of MONTY J. RICHARDSON, an indi-)
vidual, doing business as RYBEN)
TRUCKING, to sell and of TOBI)
TRANSPORT, INC., a corporation to)
purchase, that portion of a)
cement carrier certificate autho-)
rizing service to and within the)
County of Kern, in the State of)
California)

Application No. 58321
(Filed August 28, 1978)

O P I N I O N

Monty J. Richardson, an individual, doing business as Ryben Trucking (seller), seeks authority to sell and transfer and Tobi Transport, Inc., a California corporation (purchaser), seeks authority to purchase and acquire that portion of a cement carrier certificate of public convenience and necessity, authorizing operations to and between all points in the county of Kern.

The certificate held by the seller was granted by Decision 88168 dated November 29, 1977 in Application 57511 and authorizes the transportation of cement to and within the counties of Kern, Los Angeles, Orange and Ventura. He also holds a radial highway common carrier permit issued under File T-121,726.

Purchaser presently operates as a cement carrier to and between all points in the counties of Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara and Ventura under a certificate granted pursuant to Resolution 13823 (Sub. No. 11) dated June 23, 1964 in Application 46368. It also operates under highway contract carrier and dump truck carrier permits issued under File T-64,866.

Pursuant to the Purchase Agreement entered into by the parties on August 24, 1978 the purchase price for the portion of the certificate is \$1,000 payable in cash upon consummation of this transaction.

Purchaser's balance sheet of December 31, 1977 filed as an additional exhibit to the application shows a net worth of \$657,632. It proposes to operate the same motor vehicle equipment which it presently operates in its cement carrier service. Seller and purchaser both participate in Western Motor Tariff Bureau, Agent, tariff publications and purchaser will adopt the rates applicable to transportation of cement to and within the county of Kern. Applicants have submitted a copy of a shipping document evidencing operations under the certificate during the past year.

Copies of the application were served on the principal cement manufacturers in this State 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 August 31, 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 and the requested relief from the provisions of the Rules of Practice and Procedure 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 certificates held by Monty J. Richardson, an individual, doing business as Ryben Trucking and Tobi Transport, Inc., and the issuance of in-lieu certificates in appendix form to Monty J. Richardson, an individual, doing business as Ryben Trucking and Tobi Transport, Inc.

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 aspects, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature

may be cancelled 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 herein 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. Monty J. Richardson, an individual, doing business as Ryben Trucking may sell and transfer the operating rights referred to in the application to Tobi Transport, Inc., a California corporation. This authorization shall expire if not exercised by June 30, 1979, or within such additional time as may be granted 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. Applicants 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 in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Monty J. Richardson, an

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individual, doing business as Ryben Trucking, and Tobi Transport, Inc., authorizing them to operate as cement carriers as defined in Section 214.1 of the Public Utilities Code between the points set forth in Appendices A and B attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decision 88168 and Resolution 13823 (Sub No. 11) are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Applicants 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. Applicants shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If applicants 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.

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

Dated at San Francisco, California, this 12th day of DECEMBER, 1978.

Robert Bateman

President

William J. Jones

Vernon L. Sturgeon

Robert C. Hoyle

Clive T. DeWitt

Commissioners

Tobi Transport, 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 from any and all points of origin to all points in the counties of Kern, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara and Ventura, subject to the following.

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 89738 ' Application 58321.

Monty J. Richardson, an individual, doing business as Ryben Trucking, by the certificate of public convenience and necessity granted in 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 in the counties of Los Angeles, Orange and Ventura, subject to the following.

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 89738 , Application 58321.