

**ORIGINAL**Decision No. 90033

Feb 4, 1979

## 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 MAURICE )  
J. FOYE, an individual, to pur- )  
chase that portion of a cement )  
carrier certificate authorizing )  
service to and within the Counties )  
of Los Angeles, Orange and )  
Ventura, in the State of )  
California. )

Application No. 58551  
(Filed December 25, 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 Maurice J. Foye, an individual, (purchaser) seeks authority to purchase and acquire a certificate of public convenience and necessity as a cement carrier authorizing operations from all points of origin to all points of destination in the counties of Los Angeles, Orange and Ventura.

The certificate held by the seller was granted by Decision 89738 dated December 12, 1978 in Application 58321 and authorizes the transportation of cement to and within the counties of Los Angeles, Orange and Ventura. The seller also holds a radial highway common carrier permit issued under File T-121,726.

The purchaser has not heretofore conducted any business operations of any kind, nor does he hold any operating authority from this Commission or conduct any motor carrier operations. He was formerly a truck driver for Southwestern Portland Cement Co., Victorville, California.

Pursuant to the Purchase Agreement entered into by the parties on October 10, 1978, the purchase price for the certificate is \$7,500 payable in cash upon consummation of the transaction.

Purchaser's balance sheet dated December 20, 1978, filed as Exhibit B of the application, shows a net worth of \$22,900. He proposes to operate a 1972 Kenworth tractor and a set of 1972 pneumatic trailers suitable for the transportation of cement in bulk.

Seller participates in Western Motor Tariff Bureau, Inc., Agent, tariff publications and purchaser will adopt the rates applicable to the transportation of cement to and within the counties of Los Angeles, Orange and Ventura. Seller has submitted a copy of a shipping document evidencing operations under the certificate during the past year.

Copies of the application were served upon the principal cement manufacturers in this State and on the California Trucking Association. 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 December 28, 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 Commission's 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 certificate held by Monty J. Richardson, an individual, doing business as Ryben Trucking, and the issuance of an "in lieu" certificate in appendix form to Maurice J. Foye, an individual.

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 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 the 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 Maurice J. Foye, an individual. This authorization shall expire if not exercised by September 1, 1979, 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 he has adopted or established as his 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, a certificate of public convenience and necessity is granted to Maurice J. Foye, an individual, authorizing him 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 attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 89738 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

7. Purchaser shall maintain his 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 his 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, he 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 27th day of FEBRUARY, 1979.

John E. Boyer  
President

Verizon L. Sturgeon

Richard D. Howell

Charles J. Friedrich

James W. Young  
Commissioners

Maurice J. Foye, an individual, 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.

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 90033, Application 58551.