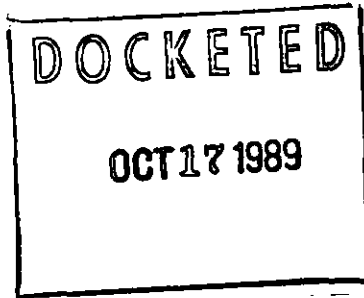




COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

September 7, 1989

IN REPLY PLEASE
REFER TO OUR FILE
A-108408



Christian V. Graf, Esquire
David H. Radcliff, Esquire
407 North Front Street
Harrisburg, PA 17101

Application of C. T. Hertzsch, Inc., a corporation of the State of Indiana

To Whom It May Concern:

Enclosed is the compliance order issued by the Commission in this proceeding.

The Certificate of Public Convenience evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

- I. Arrange through an insurance agent to have an insurance company file with the Commission a Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
- II. Prepare and file a tariff according to the enclosed instructions except applicants for transfer of authority must file a tariff adoption supplement which will be forwarded by separate cover at a later date.

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).

16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).

Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate of public convenience has been issued authorizing actual operations. You are advised that any equipment to be used in rendering the service authorized under the certificate must be registered with the Bureau of Motor Vehicles, Department of Transportation, as a bus or taxi. Motor carriers operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

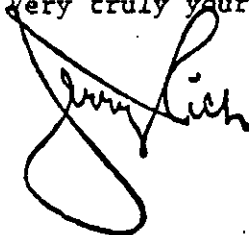
Commission regulations require compliance with all of the requirements within sixty days of the date of this letter. Failure to comply within the sixty days will cause the Commission to rescind the action of August 31, 1989 and dismiss the application without further proceedings.

If you foresee problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section
(717) 787-5521

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jerry Rich". The signature is written in dark ink and is positioned above the typed name of the signatory.

Jerry Rich, Secretary

lg

Enclosures
Certified Mail
Receipt Requested

cc:applicant
C. T. Hertzsch, Inc.
282 U. S. Highway 31
Speed, IN 47172

C. T. Hertzsch, Inc.
282 U. S. Highway 31
Speed, IN 47172
SELF

Raymond A. Thistle, Jr., Esquire
206B Benson East
100 Old York Road
Jenkintown, PA 19046
REBER CORPORATION

J. Bruce Walter, Esquire
410 North Third Street
P.O. Box 1146
Harrisburg, PA 17108-1146
HERMAN R. EWELL, INC.

Peter G. Loftus, Esquire
Suite 724 Bank Towers
Scranton, PA 18503
SEABOARD TANK LINES, INC.

Dwight L. Koerber, Jr., Esquire
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
BUTLER TRUCKING CO.

James W. Patterson, Esquire
1800 Penn Mutual Tower
510 Walnut Street
Philadelphia, PA 19106
MATLACK, INC.

John A. Pillar, Esquire
Suite 700, 312 Boulevard of the Allies
Pittsburgh, PA 15222
WAYNE N. SELL CORP., ET AL.

Robert Kodak, Esquire
407 North Front Street
Harrisburg, PA 17101
RAY BRANDT TRUCKING CO.

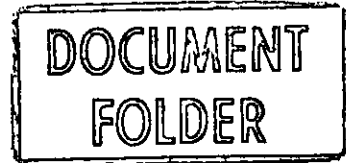
Herbert R. Nurick, Esquire
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
SAMUEL J. LANSBERRY, INC.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held August 31, 1989

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl



A-00108408

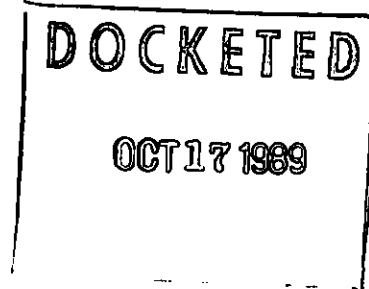
Application of C.T. Hertzsch, Inc., a corporation of the State of Indiana, for the right to begin to transport, as a common carrier, by motor vehicle, dry bulk commodities, in tank or hopper-type vehicles, between points in Pennsylvania.

Graf, Andrews & Radcliff, P.C., by Christian V. Graf, for the applicant.
Rhoads & Sinon, by J. Bruce Walter, for the protestant,
Herman R. Ewell, Inc.
Kriner, Koerber and Kirk, by Dwight L. Koerber, Jr., for the protestant,
Butler Trucking Company.
Rubin, Quinn & Moss, by James W. Patterson, for the protestant,
Matlack, Inc.
Peter G. Loftus for the protestant, Seaboard Tank Lines, Inc.
Pillar and Mulroy, P.C., by John A. Pillar, for the protestants,
Wayne W. Sell Corporation and Don Martin Trucking Company.
Raymond A. Thistle, Jr., for the protestant, Reber Corporation.
McNees, Wallace & Nurick, by Herbert R. Nurick, for the protestant,
Samuel J. Lansberry, Inc.
Robert Kodak, for the protestants, Ray Brandt Trucking Co. and
R.J. Glass, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 18, 1988. Public notice of the application was given in the Pennsylvania Bulletin of November 26, 1988. Nine protests were filed but withdrawn, contingent upon the Commission's acceptance of a restrictive amendment prohibiting service for certain named shippers and locations. The now unprotested application is certified to the Commission for its decision without oral hearing. The record consists of verified statements filed by the applicant and four supporting shippers.



C.T. Hertzsch, Inc. (Hertzsch or applicant), is a corporation of the State of Indiana, with its principal place of business in Speed, Indiana. Hertzsch is a wholly-owned subsidiary of Evergreen Holding Co., which also owns Schwerman Trucking Co., a certificated common carrier (A-00092811). Thus, the entities involved are affiliated interests and will be subject to the provisions of Chapter 21 of the Public Utility Code. 66 Pa. C.S. §§2101-2107.

The applicant currently operates under authority from the Interstate Commerce Commission. It currently has terminals in Indiana, Ohio and West Virginia; upon approval of this application, Hertzsch plans to open facilities in Allentown and Pittsburgh. Initially, ten tractors and seven pneumatic trailers will be assigned to Pennsylvania and more will be added if the volume of traffic warrants additional equipment. A comprehensive safety program for drivers and vehicles is currently in place. As evidence of its financial capacity to begin intrastate operations, Hertzsch reports assets of \$2,571,014, with liabilities of \$1,313,881, leaving a shareholders' equity of \$1,257,133.

William H. Gaston, manager of marketing services for Coplay Cement Company (Coplay), submitted a verified statement in support of the amended application. This shipper is a manufacturer and distributor of Portland Cement products, with facilities in Egypt, Lehigh County, and Nazareth, Northampton County. Coplay expects to tender approximately ten shipments per week to the applicant for delivery to distributors and job sites located throughout Pennsylvania.

Kenneth E. Skinner, director of distribution for Lone Star Industries, Inc. (Lone Star), submitted a verified statement in support of the amended application. Lone Star is also a manufacturer and distributor of cement. It anticipates using Hertzsch to deliver approximately 25,000 tons per year from its Nazareth, Northampton County, plant to ready-mix plants and block plants located across the state.

L.E. Cummings, vice president for distribution and purchasing for Lehigh Portland Cement Company (Lehigh), submitted verified statements in support of the amended application. This shipper's plant is located in York County and it requires deliveries to job sites throughout the state; recent delivery points have been located in the counties of Berks, Bucks, Chester, Crawford, Dauphin, Delaware, Franklin, Lancaster, Montgomery, Philadelphia, Washington and Westmoreland.

William R. Stonebraker, manager of marketing services for Federal White Cement, Inc. (Federal), submitted a verified statement in support of the amended application. Federal recently opened a new distribution center in Bethlehem, Northampton County. It expects to tender approximately five thousand tons per year to the applicant for delivery to such points as Philadelphia, Scranton, Chambersburg, Pittsburgh and Williamsport.

After a review of the record before us, we find it sufficient to warrant approval of the application, as amended.

We find that:

1. The applicant is fit to hold a certificate of public convenience.
2. The applicant has demonstrated that there is a public need for the proposed service, as amended.
3. Approval of the application, as amended, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved granting the following right:

To transport, as a Class D carrier, cement and dry bulk materials and supplies used or useful in the manufacture of cement (except fly ash) in tank or hopper type vehicles, between points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to transport:

- (a) Sand from the facilities of U.S. Silica in Huntingdon and Mifflin Counties;
- (b) Limestone and limestone products in tank vehicles from points in York County;
- (c) To or from the facilities of Bellefonte Lime and Center Lime & Stone Co., Inc., located in Centre County;
- (d) Limestone and limestone products from points in Lebanon County; and lime and limestone products for Mercer Limestone Co. from Slippery Rock Township, Butler County;
- (e) For Glenn O. Hawbaker, Inc., New Enterprise Stone & Lime Co., Inc., Martin Limestone, Inc., Union Equipment Company, Inc., Valley Quarries, Inc.;
- (f) Materials and supplies used or useful in the manufacture of cement within

50 statute miles of the limits of the borough of Homestead, Allegheny County, and from said territory to points in Pennsylvania, and vice versa;

- (g) Cement for Armstrong Cement & Supply Corporation or from the facilities of Armstrong Cement & Supply Corporation located in the township of Winfield, Butler County, to points in Pennsylvania and vice versa;
- (h) To or from the facilities of Eastern Industries Inc., Corson Lime Co., G. & W. H. Corson and United Gypsum Company;
- (i) To or from the facilities of Allentown Cement Company in Maidencreek Township, Berks County;
- (j) Lime to the facilities of Georgia-Pacific Corporation located in Richland Township, Bucks County.

IT IS FURTHER ORDERED: That the applicant shall not engage in any service herein authorized until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized, looped flourish.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: August 31, 1989

ORDER ENTERED: SEP 07 1989

EXTENSION OF TIME FOR COMPLIANCE ORDERS
MOTOR CARRIERS

A. 00108408

Docket Number

Christian V. Graf, Esquire
David H. Radcliff, Esquire
407 North Front Street
Harrisburg, PA 17101

Applicant/Attorney

C. T. HERTZSCH, INC.

Commission Order Adopted: August 31, 1989

Extension of time until: December 15, 1989

Reason for Extension: needs more time

Outstanding Requirements: tariff

Requested By: Sandy Lindgren

C.T. HERTZSCH, INC.
282 U.S. Highway 31
Speed, IN 47172

DEC

Approval given by:

Elizabeth McConnell Ditzler
Elizabeth McConnell Ditzler
PUC - Service Section
717-787-3366