





COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

JUNE 22, 1994

IN REPLY PLEASE  
REFER TO OUR FILE

A-00111280

TONY DEPAUL & SON LP  
800 WEST OLNEY AVENUE  
PHILADELPHIA PA 19120

DOCUMENT FOLDER  
JACKETED  
JUL 15 1994

APPLICATION OF TONY DEPAUL & SON, L.P.

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

A 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 the following forms with the Commission.
  - a. A Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
  - b. A Form H or Form UCPC-31 as evidence of cargo insurance coverage in an amount not less than \$5,000 per vehicle. Under certain circumstances, exemption from the cargo insurance requirement may be secured by filing the enclosed Form PUC-288.
- 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 shall conform to 75 Pa. C.S. §§1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa. C.S. §1171 (relating to required benefits).
- 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.
- Insurance coverage of motor carriers of property shall meet the requirements of 75 Pa. C.S. §1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- 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 has been issued authorizing actual operations. A motor carrier 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 above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of JUNE 16, 1994 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. William P. Hoshour-Insurance Section  
(717) 783-5933

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

Very truly yours,



John G. Alford  
Secretary

smk

Enclosures

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held June 16, 1994

Commissioners Present:

David W. Rolka, Chairman  
Joseph Rhodes, Jr., Vice-Chairman  
John M. Quain  
Lisa Crutchfield  
John Hanger

DOCUMENT  
FOLDER

Application of Tony DePaul & Son, L.P. for the transfer of all of the operating rights of Peter DePaul & Eugene DePaul (Deceased), Copartners, t/d/b/a Tony Depaul & Son under the certificate issued at A-00105547 subject to the same limitations and conditions.

A-00111280

DOCKETED

JUL 15 1994

Michael J. Lerner pro se.

ORDER

BY THE COMMISSION:

This matter comes before the Commission on an application filed December 7, 1993. Public notice of the application was given in the Pennsylvania Bulletin of April 16, 1994. The unopposed application is certified to the Commission for its decision without oral hearing.

The applicant, Tony DePaul & Son, L.P. is a limited partnership replacing the copartnership because of the death of a partner, Eugene DePaul. Applicant will operate eleven dump trucks. Applicant has a comprehensive safety program in place. An unaudited financial statement submitted by the applicant shows total assets of \$30,075,975 with total liabilities of \$6,802,433 leaving net worth of \$23,273,542.

The authority to be transferred includes authority to serve the applicant by name (corrected to read "Tony DePaul & Son, L.P."). In Gene Fuller Homes, Inc at A-00108928, order adopted August 2, 1990, it was found that service performed for the carrier (itself) within the territorial scope of authority held to serve the general public, no authority is necessary. The carrier may haul its own property in certificated vehicles. Therefore, right number one to be transferred will be eliminated and former right number two will be the only right granted to be retained by the applicant.

No tangible assets are involved.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Superior Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. That the application be modified to eliminate the former right number one due to Gene Fuller Homes, Inc.
3. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public;  
THEREFORE,

IT IS ORDERED: That the transfer application as modified be and is hereby approved and that a certificate be issued granting the following right(s):

To transport, as a Class D carrier crushed stone, bituminous concrete and sand, between points in the city and county of Philadelphia, and from points in said city and county, to points in the counties of Montgomery, Delaware, Bucks and Chester.

subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.
2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
4. That the utility accounts of the transferee shall reflect the same book values for all utility property acquired as shown in the records of the transferor at the effective date of the transfer, any previously recorded depreciation having been deleted therefrom.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

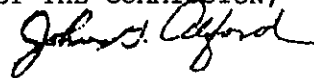
1. Form E evidence of Bodily Injury and Property Damage liability insurance.
2. Form H as evidence of cargo liability insurance.
3. a tariff establishing just and reasonable rates.
4. the 1994 assessment of the transferor.

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

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.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Peter DePaul & Eugene DePaul (Deceased), Copartners, t/d/b/a Tony Depaul & Son at A-00105547 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford  
Secretary

(SEAL)

ORDER ADOPTED: June 16, 1994

ORDER ENTERED: **JUN 22 1994**