

**ORIGINAL**

Decision 84 04 096

APR 18 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ROBERT G. HEDLUND, and JOAN E. HEDLUND,  
a co-partnership, for authority to  
acquire the rights and property of the  
proprietorship of Joseph N. LeBow dba  
Desert Empire Express and transfer  
pursuant to Sections 851 to 854 of  
the Public Utilities Code.

Application 83-12-05  
(Filed December 5, 1983)

O P I N I O N

Applicants Robert G. Hedlund and Joan E. Hedlund (Hedlunds), copartners, and Joseph N. LeBow (LeBow), an individual doing business as Desert Empire Express (Desert Empire), jointly request (1) authority for the Hedlunds to acquire the highway common carrier certificates of public convenience and necessity issued to LeBow, (2) authority to transfer the property used to conduct the business, and (3) authorization for the Hedlunds to adopt and LeBow to withdraw published rates for the transportation of freight over the routes proposed to be transferred.

Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar on December 12, 1983. No protests to the application have been received.

Desert Empire is a highway common carrier engaged in the transportation of commodities requiring use of special refrigeration and temperature control in specially designed and constructed equipment under a certificate of public convenience and necessity granted by Decision 85150 on November 18, 1975 in Application 55942. This authority is also the subject of a coextensive Certificate of Registration issued by the Interstate Commerce Commission. LeBow also holds a highway common carrier certificate issued June 21, 1979

under Public Utilities (PU) Code § 1063.5 and a highway contract carrier permit issued March 6, 1972 under File T-41,511. A separate application will be filed to transfer the permit.

Desert Empire's principal place of business is 1931 East Vernon Avenue, Vernon, CA. The Hedlunds propose to purchase and LeBow proposes to sell Desert Empire, including the name, the accounts, good will, equipment, and the operating authorities.

The agreed purchase price is \$91,000 plus assumption of all liabilities as set forth in the balance sheet attached to the application as Exhibit B. The \$91,000 purchase price is payable as follows: \$30,000 upon signing the application to transfer ownership, \$31,000 on January 1, 1984 and \$30,000 balance on netting out the difference between currently outstanding receivables and payables between the parties.

The financial statement attached to the application shows the Hedlunds with assets of \$1,076,500 and a net worth of \$674,954.

The Hedlunds propose to adopt all rates and charges currently published by Desert Empire effective with the consummation of the transfer.

The application states the proposed transfer is consistent with and will promote the public interest because Robert Hedlund has been associated with Joseph LeBow for many years, has owned a permit and performed as a subhauler for LeBow, and is well acquainted with LeBow's operations and accounts. Further, for economic and other reasons, LeBow intends to retire from the transportation business. The application states that approval would have no significant effect on the quality of the human environment or on energy efficiency.

#### Findings of Fact

1. A contract of purchase and sale between Robert G. Hedlund and Joan E. Hedlund, a co-partnership, and Joseph N. LeBow, dba Desert Empire Express, has been entered whereby Hedlunds will acquire the operating rights and property of LeBow for the purchase price of \$91,000.

2. The change in ownership will not affect motor carrier operations of Desert Empire or in any way change service to the public.

3. The public will suffer no detriment by Hedlunds' acquisition of Desert Empire.

4. No protests to the application have been received.

5. A public hearing is not necessary.

#### Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized.

2. This order should be effective on the date signed because of LeBow's poor health.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

#### O R D E R

IT IS ORDERED that:

1. Joseph N. LeBow may sell and transfer the operative rights and property specified in the application to Robert G. Hedlund and Joan E. Hedlund, a partnership. This authorization shall expire if not exercised by June 1, 1984, or within such additional time as the Commission may authorize.

2. Applicants shall:

- a. File with the Transportation Division written acceptances of the certificates and copies of the bill of sale or other transfer documents within 30 days after transfer.
- b. Amend or reissue their tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.

- c. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 84 (collect-on-delivery shipments). If applicants elect not to transport collect-on-delivery shipments, they shall file the tariffs required by that General Order.
- f. Comply with General Order Series 102 and 130. If applicant elects to engage subhaulers, applicant shall have the required bond on file, and applicant shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

3. When the transfer is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted under PU Code § 1063 to Robert G. Hedlund and Joan E. Hedlund, a partnership, authorizing them to operate as a highway common carrier, as defined in PU Code § 213, between the points and over the routes listed in Appendix A. This certificate will not broaden or change the interstate or foreign commerce rights now held by transferor.

4. Upon compliance with General Order 100, a certificate of public convenience and necessity will be issued under Section 1063.5 to Robert G. Hedlund and Joan E. Hedlund, a partnership, authorizing them to operate as a highway common carrier, with the usual exclusions, in Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties.

5. To the extent of duplication of operating rights under the two certificates, such rights shall be merged and may not be separated to permit a later separate transfer or sale.

6. This application is granted as set forth above and the certificate of public convenience and necessity granted to Joseph LeBow under PU Code §§ 1063 (D.85150) and 1063.5 (CC 3741) are revoked on the effective date of the tariffs. ✓

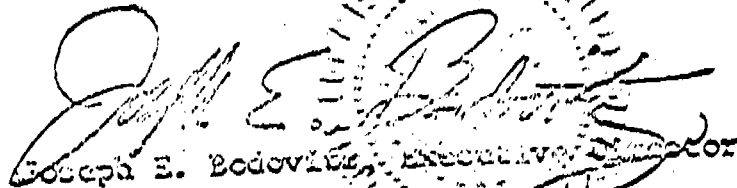
This order is effective today.

Dated April 18, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
Joseph E. Bodovitz, Executive Director

ROBERT G. HEDLUND AND JOAN E. HEDLUND  
(a partnership)  
doing business as  
DESERT EMPIRE EXPRESS

Robert G. Hedlund and Joan E. Hedlund, a partnership doing business as Desert Empire Express, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of commodities requiring the use of special refrigeration or temperature control in specially designed and constructed equipment between:

1. All points and places in the Los Angeles Basin Territory as described in Note A.
2. All points and places in the Los Angeles Basin Territory and all points and places on and within ten (10) miles laterally of the following high-ways:
  - a. State Highway 14 between San Fernando and Mojave, inclusive.
  - b. State Highway 58 between Keene and Barstow, inclusive.
3. The Los Angeles Basin Territory and the following points and places in the Counties of Los Angeles, Kern, or San Bernardino: Castaic, Pearblossom, Inyokern, China Lake, Ridgecrest, Westend, Argus, Trona, Johnnesburg, Randsburg and Red Mountain.
4. The Los Angeles Basin Territory and Coachella serving all intermediate points on or within ten (10) miles laterally of the following high-ways:
  - a. Interstate Highway 10 from the eastern boundary of the Los Angeles Basin Territory to Coachella.

Issued by California Public Utilities Commission.

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- b. State Highway 111 from its intersection with Interstate Highway 10 near White-water to Coachella.
5. Between all points and places in the Los Angeles Basin Territory and the San Diego Territory, as described in Note B via U. S. Highway 101 (Interstate 5), U. S. Highway 395, and State Highway 78, serving all intermediate points on, and all off-route points within ten (10) miles laterally of said highways.
  6. Between all points and places in the Los Angeles Basin Territory and Paso Robles and Cambria, serving all points and places on and within ten (10) miles laterally of U. S. Highway 101 and State Highway 1.
  7. Between all points and places in the Los Angeles Basin Territory and Bakersfield, serving all points and places on and within ten (10) miles laterally of Interstate Highway 5 and State Highway 99, serving the off-route points of Maricopa, Taft and Ford City.
  8. Between all points and places in the Los Angeles Basin Territory and Lucerne Valley, serving all points and places on and within ten (10) miles laterally of Interstate Highway 15 and State Highway 18.
  9. Between all points and places in the Los Angeles Basin Territory and Newberry, serving all points and places on and within ten (10) miles laterally of Interstate Highways 15 and 40.
  10. Between all points and places in the Los Angeles Basin Territory and Boron, serving all points and places on and within ten (10) miles laterally of Interstate Highway 15, U. S. Highway 395 and State Highway 58.

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Robert G. Hedlund and Joan E. Hedlund, a partnership, doing business as Desert Empire Express, is authorized to use all available public highways between points to be served as herein above mentioned, and within the cities herein above to be served, and to use such streets and highways as may be necessary to serve consignors and consignees located within said cities.

## NOTE A

## LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; northeasterly along the county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along the corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and Interstate Highway 15 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; westerly to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along the corporate boundary to The Atchison, Topeka &

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Santa Fe right-of-way; southerly along the right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to Interstate Highway 15; southerly along Interstate Highway 15 to the Riverside County-San Diego County boundary line; westerly along the boundary line to the Orange County-San Diego County boundary line; southerly along the boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

## NOTE B

## SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on Interstate Highway 15; following an imaginary line running southeasterly to Lakeside on State Highway 67; southerly on County Road S-17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; due south following an imaginary line to the California-Mexican boundary line; westerly along the boundary line to the Pacific Ocean and north along the shoreline to the point of beginning.

(END OF APPENDIX A)

6. The certificate of public convenience and necessity granted to Joseph LeBow under PU Code §§ 1063 (D.85150) and 1063.5 (GC 3741) are revoked on the effective date of the tariffs.

This order is effective today.

Dated APR 18 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners