

Decision 84-10-094 October 17, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 REEBOW, INC., a corporation, GRENOBLE)
 ENERGY LIMITED, a corporation, and)
 RICHARD H. REES, Trustee for MICHAEL)
 J. O'NEILL to acquire control of)
 NICKELS TRUCKING CO., INC., a)
 corporation, through acquisition of)
 stock from CALVIN NICKELS, KATHERINE)
 NICKELS and JERRY NICKELS.)

Application 84-04-139
(Filed April 27, 1984)

O P I N I O N

This is an application in which Reebow, Inc. (Reebow), a Nevada corporation, Grenoble Energy Limited (Grenoble), a British Columbia, Canada corporation, and Richard H. Rees (Rees), Trustee for Michael J. O'Neill (O'Neill) seek authority to acquire control of Nickels Trucking Co., Inc. (Nickels Trucking) through acquisition of stock from Calvin Nickels, Katherine Nickels and Jerry Nickels (Nickels).

Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar on May 3, 1984. There are no protests.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Nickels holds the following operating authority issued by the Commission.
 - a. Highway common carrier certificate (GC 1661).
 - b. Highway contract carrier permit.
(File No. T-89,280). ✓
3. Nickels Trucking had 85 shares of common stock outstanding which were owned as follows:
 - Calvin and Katherine Nickels, husband and wife - 70 shares
 - Jerry Nickels - 15 shares

4. Reebow is a corporation organized and existing under and by virtue of the laws of the State of Nevada. It does not conduct any business activities in California. Reebow is authorized by its Articles of Incorporation to issue 100,000 shares of capital common stock; 100 shares, which constitutes all of its outstanding and issued stock, have been issued to Rees.

5. Grenoble is a corporation organized and existing under and by virtue of the laws of the Province of British Columbia, Canada. It does not conduct any business activity in the State of California. Grenoble is a publicly listed company whose stock is traded on the Vancouver Stock Exchange. Grenoble is authorized to issue 10 million shares of its capital stock and has issued as of June 30, 1983, 4,285,850 shares.

6. In an agreement dated November 15, 1983, Nickels agreed to sell, and Reebow agreed to purchase from Nickels, 85 shares of Nickels Trucking for the total purchase price of \$550,000.00.

7. In a Redemption Agreement dated December 1, 1983, Nickels Trucking redeemed 65 shares of its stock from Reebow resulting in 20 shares of its stock being issued and outstanding. Pursuant to an agreement dated December 1, 1983, Reebow agreed to sell and transfer to Grenoble 50% of the stock held by Reebow after said redemption, i.e., 10 shares, for the sum of \$160,000.00.

8. In a Trust Agreement dated December 1, 1983, among Reebow, as Trustor, O'Neill as beneficiary, and Rees as Trustee, Reebow agreed to convey 20% of Reebow's stock after the said redemption, i.e., 4 shares to Rees as Trustee for the benefit of O'Neill, as beneficiary. Under the terms and conditions of the trust agreement, the trust would remain in effect for 3 years, at which time the Trustee would surrender the aforesaid 4 shares to O'Neill.

9. Upon consummation of the various agreements set forth above, 20 shares of the outstanding and issued stock of Nickels Trucking will be held as follows:

Reebow - 6 shares
Grenoble - 10 shares
Rees as Trustee for O'Neill - 4 shares

10. Grenoble had earning assets of \$1,328,209 as of June 30, 1983.

11. The Nickels desire to retire from the motor carrier transportation business and no longer desire to participate in the management or operation of Nickels Trucking.

12. O'Neill, who will actively participate in the management of Nickels Trucking, both as President, General Manager and as a Director, has had more than 10 years' experience in the motor carrier transportation business, having been employed by regulated motor carriers. Rees, who will actively participate in the management of Nickels Trucking, both as a Vice President, Secretary, Chief Financial Officer and Director, has had more than 10 years experience in motor carrier operations having been employed by interstate and California intrastate motor carriers. Leslie O'Neill, wife of O'Neill, will actively participate in the management of Nickels Trucking as a Vice President. She has more than 5 years' experience in motor carrier operations. Michael Bowes who will be a Director of Nickels Trucking, is President and Director of Grenoble, and has business experience as an executive and director of several companies. William Campbell, who will be a Director of Nickels Trucking, is Secretary-Treasurer and a Director of Grenoble, and is also a Chartered Accountant. Earl Edward Weisbrod, who will be a Director of Nickels Trucking, is also a Director of Grenoble and a businessman.

13. There will be no change in the motor carrier operations of Nickels Trucking or in its services offered to the public if the application is granted. Its operations and services will be enhanced and improved as a result of the combined management and business experience of the new officers and directors set forth above.

14. Authority was requested and orders obtained from the California Department of Corporations consenting to the transfer of the stock from Nickels to Reebow, and from Reebow to Grenoble and Rees as Trustee for O'Neill. The transactions with respect to the transfer of stock from the Nickels family to Reebow, and the

redemption of the Nickels Trucking stock were consummated. At the time applicants were not aware of the requirement of seeking authorization from this Commission pursuant to Sections 854 and 3551 of the California Public Utilities Code. Applicants were under the honest belief that said authorization was not required because of recent deregulation changes by the Interstate Commerce Commission (ICC) which would not have been required if Nickels Trucking were an ICC regulated carrier. Although Nickels Trucking is not an ICC regulated motor carrier, applicants were under the belief and had received advice that similar authorization was not required by the Commission. There was no intention on the part of applicants to consummate any of these transactions in violation of Sections 854 and 3551 of the California Public Utilities Code. Upon being advised by counsel that these transactions were subject to authorization by this Commission, they immediately took steps to initiate and file this application. The transactions in connection with the transfer of stock from Reebow to Grenoble and Rees as Trustee for O'Neill have not been consummated.

15. The proposed acquisition of control of Nickels Trucking by Reebow, Grenoble and Rees as Trustee for O'Neill is not adverse to the public interest.

16. It can be seen with certainty that there is no possibility that a granting of this application may have a significant effect on the environment.

17. Since the order only affects the parties to it, it should be made effective on the date of issuance.

Conclusions of Law

1. Under PU Code § 853 the Commission has jurisdiction to exempt transactions which would otherwise be void under PU Code §§ 851 and 852, where the exemption would be in the public interest. (Investigation of Golconda Utilities Co. (1968) 68 CPUC 296, 300.) The Commission does not have similar jurisdiction with respect to PU Code §§ 854 and 3551.

2. The application should be granted, but applicants should be required to ratify or re-execute transactions which occurred prior to the effective date of this order.

O R D E R

IT IS ORDERED that:

1. Reebow, Inc., a Nevada corporation, Grenoble Energy Limited, a British Columbia, Canada, corporation, and Richard H. Rees, Trustee for Michael J. O'Neill, are authorized to acquire by purchase of common stock from Calvin Nickels, Katherine Nickels and Jerry Nickels control over Nickels Trucking Co., Inc., a California corporation, in accordance with the terms set forth in the application.

2. The parties shall ratify or re-execute any transactions which occurred prior to the effective date of this order for the transactions to be valid. ✓

3. Nickels Trucking Co., Inc. shall file written notice of the acquisition of control with the Transportation Division within 15 days after the transactions have been validly consummated.

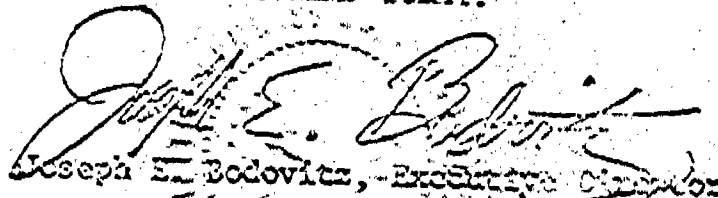
4. The authority granted in Ordering Paragraph 1 shall expire unless it is exercised before September 27, 1985.

This order is effective today.

Dated OCT 17 1984, at San Francisco, California.

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

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