

Decision 82 01 34 January 5, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Gene A. Owens,)
 dba O & B Transportation, to)
 transfer his Highway Common)
 Carrier Certificate and a)
 California Corporation (sic), to)
 acquire said Certificate (Public)
 Utilities Code 851 and 1064.5).)

Application 60875
(Filed September 2, 1981)

O P I N I O N

Gene A. Owens and Bobby J. Boyd, a partnership doing business as O & B Transportation, presently hold highway common carrier certificate GC-8380, File T-121,616, issued April 30, 1980 under Public Utilities (PU) Code § 1063.5. This certificate authorizes the transportation of general commodities within the State. The application title box incorrectly lists transferor as Gene A. Owens, instead of Gene A. Owens and Bobby J. Boyd, a partnership, and fails to list transferee, Gene A. Owens.

Section 1063.5 authorizes holders of radial highway common carrier permits to convert their permits to highway common carrier certificates. In Decision 89575 dated October 31, 1978, as amended, the Commission held that during the 5-year period after their § 1063.5 certificates become effective, carriers should be allowed to expand or contract their operations conducted under such certificates by making appropriate tariff filings. This procedure preserves the carriers' opportunity, formerly available to radial permit holders, to develop and shape their operations based upon managerial objectives. PU Code § 1064.5 prohibits the transfer of § 1063.5 certificates during that 5-year period except to the extent of operations actually conducted as a prime carrier.

By Resolution 18049 dated July 31, 1979 the Commission recognized that businesses often change their legal form while continuing the same operations, and it held that some transfers of \$ 1063.5 certificates were not transfers within the meaning of \$ 1064.5. Therefore, when a transfer of a \$ 1063.5 certificate is required by a change in the form of the business entity the transfer will be authorized without compliance by the applicants with the service rules relating to transfers. Among the kinds of changes in business entity held by Resolution 18049, not to be transfers within the meaning of \$ 1064.5 is the following: "A partnership is dissolved and where one or more of the surviving partners wish to remain in business." This application involves such a transfer.

Findings of Fact

1. The proposed transfer would not be adverse to the public interest. A public hearing is not necessary.
2. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. Gene A. Owens and Bobby J. Boyd, co-partners, may transfer the operating rights specified in the application to Gene A. Owens, an individual. This authorization shall expire if not exercised by June 30, 1982 or within such additional time as the Commission may authorize.

2. Gene A. Owens shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue Gene A. Owens' and Bobby J. Boyd's tariffs. The tariffs shall not be effective before the date of transfer, nor before five days notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, and 104 and California Highway Patrol Safety Rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Gene A. Owens, an individual, authorizing him to operate as a highway common carrier as defined in PU Code § 213 between all points in the State of California.

4. The certificate of public convenience and necessity granted under PU Code § 1063.5 in Application GC 8380 is revoked on the effective date of the tariffs.

This order becomes effective 30 days from today.

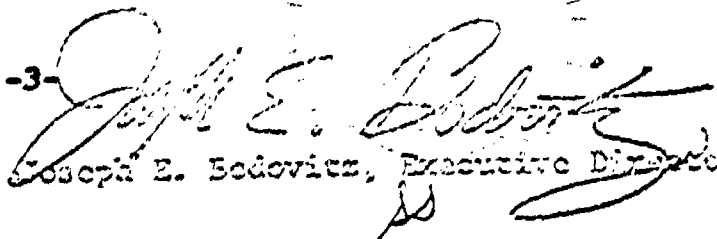
Dated JAN 5 1982 , at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

Commissioner Leonard M. Grimes, Jr.,
being necessarily absent, did not
participate.

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

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Joseph E. Bodovitz, Executive Director