

ORIGINAL

Decision 82 02 104 FEB 17 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
L-K TRANSPORTATION SERVICES, INC.,)
a California corporation, to acquire)
a certificate of public convenience)
and necessity from BCT TRANSPORTATION)
CO., INC.)

Application 60506
(Filed May 1, 1981)

O P I N I O N

By this application L-K Transportation Services, Inc. (L-K), a California corporation, seeks authority to acquire a certificate of public convenience and necessity as a highway common carrier from BCT Transportation Co., Inc. (BCT), a California corporation.

BCT's highway common carrier certificate was granted by Decision (D.) 87455, dated June 7, 1977 in Application 57054. It authorizes the transportation of general commodities with certain exclusions between all points and places in San Francisco Territory, including all points and places located within 10 statute miles of the boundary of this territory. No service is authorized to or from the City of Half Moon Bay. This certificate has been registered with the Interstate Commerce Commission and a Certificate of Registration issued in Docket No. MC 120601 (Sub No. 3).

BCT also holds a highway common carrier certificate issued under Public Utilities (PU) Code Section 1063.5 in Application GC 1530 which authorizes the transportation of general commodities between all points in the State of California. It also holds permitted authorities as a highway contract carrier, agricultural carrier, and heavy-specialized carrier under File T-105,361. Disposition of these authorities is not part of this application.

L-K holds no operating authority from this Commission.

BCT has filed for bankruptcy in Case No. 3-81-0577, Northern District of California. The proceeds from the sale of the certificate granted under D.87455 will be paid to the trustee to help defray the carrier's debts; although the sale is actually taking place outside of bankruptcy.

The purchase agreement filed as Exhibit 4 of the application provides for payment by L-K to BCT of \$4,000 for the certificate and the coextensive certificate of registration. The purchase price is to be paid as follows: \$1,000 has already been paid as a nonrefundable deposit by L-K. On the consummation date of the transfer an additional \$3,000 shall be paid in cash.

The balance sheet of L-K, dated October 31, 1980, shows a net worth of \$8,652. A copy of the application was furnished to the California Trucking Association and notice of the filing of the

application appeared in the Commission's Daily Calendar of May 5, 1981. No protests to the application have been received.

The two highway common carrier certificates held by BCT were acquired under different provisions of the PU Code. They are considered as one authority inasmuch as the certificate acquired under Section 1063.5 totally overlaps the certificate requested to be transferred by this application. We have held on numerous occasions that to the extent that one certificate duplicates, in whole or in part, any other certificated authority held by a carrier, such operative rights may not be separated to allow the sale or transfer of one or more of such duplicating rights or portion of them and the retention of another certificated right to perform the same service. This requirement is specifically set forth in paragraph (2) of the Section 1063.5 certificate. Accordingly, the certificated authority which is retained by BCT will be amended to reflect the transfer of the operating rights which are the subject of this application.

Findings of Fact

1. The proposed transfer of the certificate acquired by BCT under D.87455 would not be adverse to the public interest.
2. L-K is well-qualified and has sufficient financial resources to conduct the proposed operation.

3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

4. A public hearing is not necessary.

Conclusion of Law

The proposed transfer should be authorized.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by BCT, which was acquired by D.87455 and the issuance of an in-lieu certificate of public convenience and necessity in appendix form to L-K. The new certificate will not broaden or change the interstate or foreign commerce rights now held by BCT. The certificate held by BCT, which was acquired under PU Code Section 1063.5, will be amended to delete the authority transferred by this order.

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. BCT Transportation Co., Inc., a California corporation, may sell and transfer the operative rights specified in the application to L-K Transportation Services, Inc., a California

corporation. This authority shall expire if not exercised by May 30, 1982, or within such additional time as the Commission may authorize.

2. L-K Transportation Services, Inc. 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 BCT Transportation Co., Inc.'s 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, 104, and 147, and the 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 L-K Transportation Services, Inc., a California corporation, authorizing it to operate as highway common carrier, as defined in PU Code Section 213, between the points listed in Appendix A.

4. The certificate of public convenience and necessity granted by D.87455 is revoked on the effective date of the tariffs.

5. The certificate of public convenience and necessity granted to BCT Transportation Co., Inc. by PU Code Section 1063.5, effective April 30, 1980, in Application GC 1530, is amended as set forth in Appendix B.

This order becomes effective 30 days from today.

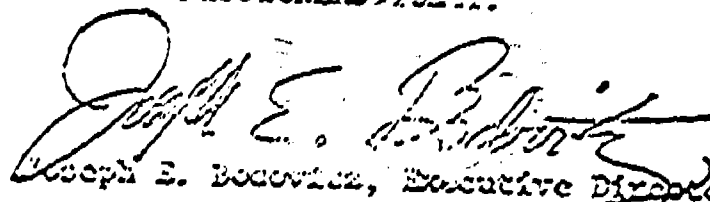
Dated FEB 17 1982, at San Francisco, California.

RICHARD D GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
FRISCILLA C. CREW
Commissioners

Commissioner JOHN E. ERYSON

Present but not participating.

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


Joseph E. Bodovick, Executive Director

Appendix A L-K TRANSPORTATION SERVICES, INC. Original Page 1
(a California corporation)

L-K Transportation Services, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Public Utilities Code Section 213 for the transportation of general commodities as follows:

Between all points and places in the San Francisco Territory as described in Note A, including all points and places located within 10 statute miles beyond the boundary of this territory, subject to the following restriction:

(RESTRICTION: No service is authorized to or from the City of Half Moon Bay.)

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store, and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, briefcases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap, or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).

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9. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Fresh fruits and vegetables.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

NOTE A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County line meets the Pacific Ocean; easterly along that county line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos city limits; easterly along the city limits and their prolongation to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to

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Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and its prolongation to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along the boundary line to the campus boundary of the University of California; westerly, northerly, and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along the waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)

T/SEG/TCG/WPSC

Appendix B
Amendment to
Section 1063.5
Certificate

BCT TRANSPORTATION CO., INC. Original Page 1
(a California corporation)

BCT Transportation Co., Inc., by the certificate of public convenience and necessity issued under PU Code Section 1063.5 in Application GC 1530, is authorized to conduct operations to the extent set forth in such certificate as a highway common carrier as defined in PU Code Section 213, except within the territory described in Appendix A of the decision noted in the margin.

(END OF APPENDIX B)

Issued by California Public Utilities Commission, original issued effective April 30, 1980, GC 1530.

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