

Decision 82 02 116

FEB 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MID-WESTERN TRANSPORT, INC., a cor-)
poration, to transfer the common)
carrier certificate of Spirit of)
'76 Overland Express, Inc.)

Application 60943
(Filed September 25, 1981)

O P I N I O N

The application requests authority to transfer the highway common carrier certificate held by Spirit of '76 Overland Express, Inc. (Overland), a Delaware corporation, to Mid-Western Transport, Inc. (Mid-Western), a California corporation. The certificate presently held by Overland was issued April 30, 1980 under Public Utilities (PU) Code § 1063.5. The certificate number is GC-9226 in File T-120692. The certificate authorizes transportation of general commodities within the State. The authority to transfer is sought under PU Code §§ 851 and 1064.5.

Commission Resolution 18106, adopted April 7, 1981, sets forth the rules governing the transfer of § 1063.5 highway common carrier certificates. Resolution 18106 provides, among other things, that the transfer of authority under PU Code § 1064.5 shall be limited to actual operations previously conducted in good faith under the operating authorities. Further, it is provided that applications for transactions subject to PU Code § 1064.5 shall include a certification under penalty of perjury by the holder of the operating authority which sets forth the extent to which actual operations were conducted in good faith under this certificate. Such certification was submitted by Dewey D. Cole, vice president of Overland (and of Mid-Western). The certification states that actual operations had been conducted in all counties of the State of California.

The purchase price for transfer of the certificate is \$100.

Mid-Western reports total assets of approximately \$2.4 million as of July 31, 1981 and total stockholders' equity as of the same date of approximately \$820,000. Mid-Western estimates required working capital for 45 days' operation in the amount of \$5,196. This can be compared to Mid-Western's total available cash and/or current liquid assets of \$35,200. Mid-Western states that it has been in the trucking business for approximately four years and proposes to expand its operations to include transportation of general commodities for the public generally.

Notice of the filing of the application appeared in the Commission's Daily Calendar of September 30, 1981. No protests to this application have been received. A public hearing in this matter is not necessary.

Findings of Fact

1. PU Code § 1064.5 provides that operating authorities subject to this code section may not be transferred for a period of five years after issuance, except to the extent of operations actually conducted in good faith, not including operations as a subhauler.

2. Overland has certified that it has conducted operations in good faith, not including operations as a subhauler, in all counties of the State of California.

3. The proposed transfer would not be adverse to the public interest.

4. A public hearing is not necessary.

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

Conclusion of Law

The proposed transfer is not adverse to the public interest and should be authorized.

Only the amount paid 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. Spirit of '76 Overland Express, Inc. may sell and transfer the operative rights specified in the application to Mid-Western Transport, Inc. This authority shall expire if not exercised by June 30, 1982, or within such additional time as the Commission may authorize.

2. Purchaser 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 seller'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 Mid-Western Transport, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A.

4. The certificate granted to Spirit of '76 Overland Express, Inc., in Application GC-9226 effective April 30, 1980, under PU Code \$ 1063.5, is revoked on the effective date of the tariffs.

This order becomes effective 30 days from today.

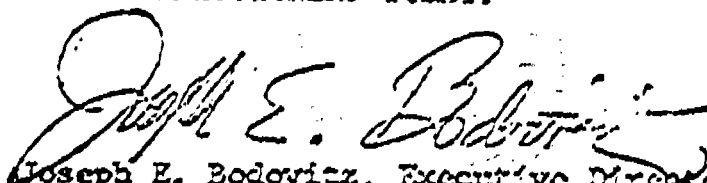
Dated Feb 17 1982, at San Francisco, California.

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

Commissioner JOHN E. BRYSON

Present but not participating:

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


Joseph E. Bodovitz, Executive Director

Mid-Western Transport, 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 within and between all points in all counties in the State of California.

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

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Ordinary livestock.
3. Petroleum or petroleum products in tank trucks or tank trailers.
4. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
5. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.

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.

(END OF APPENDIX A)

Transferred from Certificate GC-9226 issued under PU Code Section 1063.5 on April 30, 1980.

Issued by California Public Utilities Commission.

Decision ~~82-02-116~~, Application 60943.