

ORIGINAL

Decision 82 03 034 MAR 16 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Hearn Trucking, Inc., (a corporation))  
to acquire, and Richard S. & )  
Rita L. Hearn, (individuals) to )  
transfer a Common Carrier )  
Certificate 97910 (and certain )  
property pursuant to Sections 851, )  
et seq., of the California Public )  
Utilities Code). )

Application 61068  
(Filed November 23, 1981)

O P I N I O N

Richard S. Hearn, doing business as Hearn Trucking, requests authority to transfer a certificate of public convenience and necessity to Hearn Trucking, Inc., a California corporation of which Richard S. Hearn is president and sole stockholder. The certificate, issued April 30, 1980 under Public Utilities (PU) Code § 1063.5 in Application GC 7146, authorizes the transportation of general commodities within the State.

PU Code § 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, such as the incorporation of a proprietorship or partnership where the beneficial ownership interests remain substantially the same, the transfer will be authorized without compliance by the applicants with the service rules relating to transfers. This application involves such a transfer.

Findings of Fact

1. There is no change in the beneficial ownership of the § 1063.5 common carrier authority.
2. The proposed transfer would not be adverse to the public interest. A public hearing is not necessary.
3. 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. On or before July 30, 1982 but not before the effective date of this order, Richard S. Hearn may transfer to Hearn Trucking, Inc. the operating authority issued under PU Code § 1063.5 in Application GC 7146. ✓
2. Within 30 days after the transfer, Hearn Trucking, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.

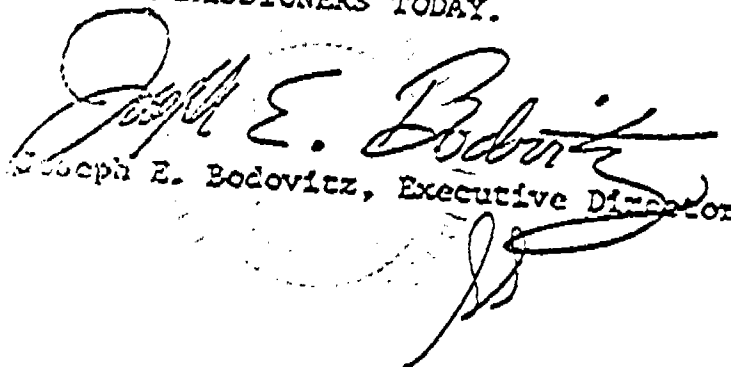
3. Hearn Trucking, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier than 5 days after the effective date of this order on not less than 5 days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings made under this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Orders Series 80 or 147. Failure to comply with the provisions of General Orders Series 80 or 147 may result in cancellation of the operating authority granted by this decision.

This order becomes effective 30 days from today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. GREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director