

ORIGINAL

Decision 82 03 104 MAR 16 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TRANS-SERVE, INC., a corporation,)
dba TRANSPORTATION SERVICES to)
acquire, and BIRKETT TRANSPORTATION,)
INC., a corporation to transfer a)
Common Carrier Certificate pursuant)
to Sections 851, et seq., of the)
California Public Utilities Code.)

Application 61111
(Filed December 7, 1981)

O P I N I O N

Birkett Transportation, Inc. (Seller), a California corporation, through N. Gregory Young, Trustee in Bankruptcy, requests authority to sell and transfer its certificate of public convenience and necessity to Trans-Serve, Inc. (Purchaser), a California corporation doing business as Transportation Services.

The highway common carrier certificate was issued under Public Utilities (PU) Code Section 1063.5 in Application GC 7833 and authorizes the statewide transportation of general commodities, with the usual exclusions. Under PU Code Section 1064.5, during the first five years after issuance, this type of certificate may only be transferred to the extent of lawfully performed actual transportation operations as a prime carrier. Seller has certified to operations under the certificate in all counties of the State.

Seller also holds a heavy-specialized carrier permit under File T-112,355 which is being transferred to Purchaser by separate application.

Seller was declared bankrupt in the United States Bankruptcy Court, Central District of California on August 7, 1980 in Case No. 80-07180-JD. Young was appointed Trustee and caused to be offered at a private sale the highway common carrier certificate and the heavy-specialized carrier permit to Purchaser for \$700 cash, subject to the approval of this Commission.

Purchaser's balance sheet of September 22, 1981, included as Exhibit C of the application, shows a net worth of \$23,534.69.

A copy of the application was furnished to the California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of December 9, 1981. No protests have been received.

Findings of Fact

1. Purchaser has the ability, including the financial ability, to initiate and continue the proposed operation.
2. 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 proposed transfer is not adverse to the public interest and should be authorized.

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. Birkett Transportation, Inc. may sell and transfer the operative rights specified in the application to Trans-Serve, Inc. This authority shall expire if not exercised by July 1, 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 Trans-Serve, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code Section 213, between the points listed in Appendix A.

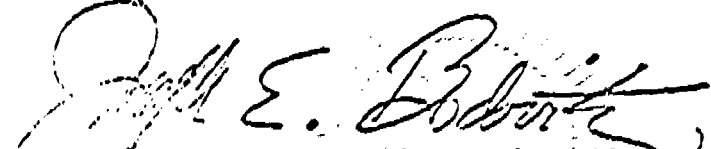
4. The certificate of public convenience and necessity granted in Application GC 7833 is revoked on the effective date of the tariffs.

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. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

Trans-Serve, 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:

Within and between all points in all counties of 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 7833, issued under PU Code Section 1063.5 on April 30, 1980.

Issued by California Public Utilities Commission.

Decision S2 03 104, Application 61111.