

Decision 82 04 046 April 6, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Buena Roof Service,)
Inc., a California corporation, to)
transfer its Highway Common Carrier)
Certificate and Buena Trucking Co.,)
Inc., a California corporation, to)
acquire said Certificate (Public)
Utilities Code 851 and 1064.5.))

Application 82-01-11
(Filed January 6, 1982)

O P I N I O N

Buena Trucking Co., Inc. (Buena Trucking), a California corporation and Buena Roof Service, Inc. (Buena Roof), a California corporation, jointly apply to transfer the highway common carrier certificate of Buena Roof to Buena Trucking.

Buena Roof and Buena Trucking maintain a principal place of business at 75 West Crown, Ojai, California. Buena Roof operates as a highway common carrier in the transportation of general commodities by motor vehicle in intrastate commerce under authority of a certificate issued by the Public Utilities Commission under Public Utilities (PU) Code Section 1063.5 in Application (A.) GC-8220, File T-105,374. ✓

Emil Mahl holds majority beneficial interest in both Buena Roof and Buena Trucking.

Buena Roof's balance sheet as of June 11, 1981, shows total assets of \$700,577 with stockholder's equity of \$691,766. The profit and loss statement of Buena Roof for the year ended March 31, 1980 shows net income of \$248,835.

Buena Trucking reports total assets as of November 1, 1981 of \$41,865 and stockholder's equity of \$41,510.

Buena Roof had previously filed an Affidavit of Intent to Conduct Operations Exclusively as a Subhauler (as defined in General Order 102) and to provide no service to shippers directly. However, Buena Trucking has stated that it will conduct operations as a prime carrier and intends to adopt the Commission's transition tariffs. ✓

Applicants allege that the granting of this application will have no significant effect upon the quality of the human environment and that no "environmental data statement" is therefore required. They also allege that the granting of this application does not involve an action which significantly affects energy efficiency.

Resolution 18049 adopted by the Commission on July 31, 1979 permits transfer of a certificate obtained under PU Code Section 1063.5 when the transfer will not result in a change in a majority beneficial interest in the certificate. Such is the case here.

Notice of filing of this application appeared in the Commission's Daily Calendar of January 8, 1982. No protests to the application have been received. Applicant requests relief from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application.

Findings of Fact

1. Emil Mahl holds majority beneficial interest in both Buena Roof and Buena Trucking; therefore, the proposed transfer will result in no change in beneficial interest.
2. Buena Trucking has the resources, experience, and equipment to conduct the common carrier operations being transferred.
3. The transfer will have no adverse effect on other carriers or the shipping public.

4. The transfer will have no reasonably foreseeable effect on the energy efficiency of highway carriers.
5. The transfer will not be adverse to the public interest.
6. A public hearing is not necessary.

Conclusion of Law

The application, including applicants' request for relief from the provisions of Rule 37(a) of the Commission's Rules of Practice and Procedure should be granted.

Only the amount paid to the State for operative rights may be used in ratefixing. 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. Buena Roof Service, Inc. may transfer the operative rights specified in the application to Buena Trucking Co., Inc. This authority shall expire if not exercised by September 30, 1982 or within such additional time as the Commission may authorize.
2. Buena Trucking Co., 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 the tariffs of Buena Roof Service, Inc. 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 Order 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. Applicants' request for relief from the provisions of Rule 21(f) of the Commission's Rules of Practice and Procedure is granted.

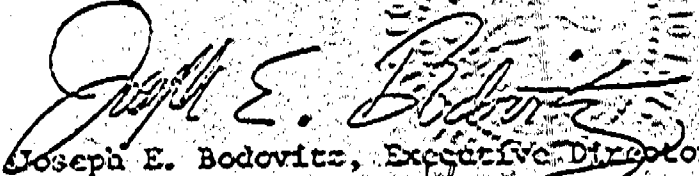
4. Whenever Buena Trucking Co., Inc. engages other carriers for the transportation of property of Buena Roof Service, Inc., or Buena Trucking Co., Inc., or affiliates, subcontractors, customers, or suppliers of those entities, Buena Trucking Co., Inc. shall not pay such other carriers rates and charges less than the rates and charges published in the tariffs of Buena Trucking Co., Inc. on file with the Commission.

This order becomes effective 30 days from today.

Dated APR 6 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