

Decision 82 04 048 April 6, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Dorothy Jordan and)
Talmadge A. Jordan, dba Jordan)
Trucking, to transfer their high-)
way common carrier certificate and)
Dorothy Jordan, Talmadge A. Jordan)
and T. L. Jordan to acquire said)
certificate. (Public Utilities Code)
§ 851 and 1064.5.))
_____)

Application 82-01-57
(Filed January 28, 1982)

O P I N I O N

Dorothy and Talmadge A. Jordan, a partnership doing business as Jordan Trucking, request authority to transfer a certificate of public convenience and necessity to Dorothy, Talmadge A., and T. L. Jordan, a partnership. The certificate, issued April 30, 1980 under Public Utilities (PU) Code § 1063.5 in Application GC 7496, File T-121,483, authorizes the transportation of general commodities within the State.

Section 1063.5 authorized 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.

A copy of the application was served on California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of January 29, 1982. No protests have been received. Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application.

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

O R D E R

IT IS ORDERED that:

1. On or before July 30, 1982, Dorothy Jordan and Talmadge A. Jordan, a partnership, may transfer to Dorothy, Talmadge A., and T. L. Jordan, a partnership, the operating authority issued under PU Code § 1063.5 in Application GC 7496.
2. Within 30 days after the transfer Dorothy, Talmadge A., and T. L. Jordan shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. Dorothy, Talmadge A., and T. L. Jordan 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 them as its own. 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 with General Order Series 80 or 147 (regulations governing the construction and filing of tariffs). Failure to comply may result in cancellation of the operating authority granted by this decision.

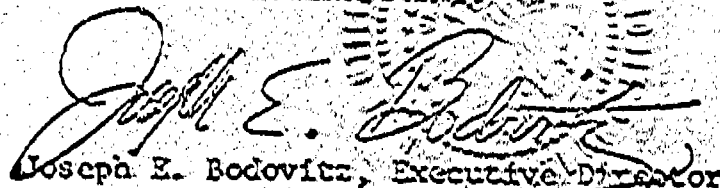
4. Applicants' request for relief from the provisions of Rule 37(a) of the Commission's Rules of Practice and Procedure is granted.

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. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director