

ORIGINAL

Decision 82 07 067 JUL 7 - 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of Bay Area Trailways Co., Inc.,)
for a certificate of public)
convenience and necessity)
authorizing highway common carrier)
service and for authority to issue)
stock.)
_____)

Application 82-02-42
(Filed February 18, 1982;
amended March 29, 1982)

O P I N I O N

This application was originally filed under the name of Bay Area Trailways Co., Inc. On March 24, 1982, Bay Area Trailways Co., Inc. changed its name to BATCO Trucking, Inc. by amendment to its Article of Incorporation and advised the Commission by amending its application.

Applicant BATCO Trucking, Inc., a California corporation, requests a certificate of public convenience and necessity authorizing it to operate as a highway common carrier of general commodities, with the usual exceptions, between all points in the State of California. It also requests authority to issue 100 shares of its common capital stock. A copy of the application and its amendment were served on California Trucking Association and notice of the filing of the application and its amendment appeared in the Commission's Daily Calendars of February 23, 1982 and March 31, 1982, respectively. No protests to the application have been received. Applicant requests that the service requirements of Rule 21(f) of the Commission's Rules of Practice and Procedure be waived due to the great burden it would place on applicant in serving well over 10,000 carriers.

The application shows that applicant is a newly formed corporation which is affiliated through common management with Central Bay Warehouse Company, Inc. (Central), of Oakland, a public warehouse whose facilities applicant will use as a terminal. These

facilities include, among others, a large parking area and a dock for crossdock handling equipped with four doors. Applicant is presently negotiating for a terminal facility in Sacramento and is contemplating establishing a terminal in the Los Angeles area if this application is granted. It has 18 pieces of vehicular equipment which it intends to use in the proposed operation and contends that if more equipment is required applicant will acquire it.

Applicant proposes to provide daily service Monday through Friday for the pickup and delivery of both truckload and less-than-truckload shipments. It will provide overnight service between all points, and weekend and holiday service will be available upon request. It proposes to establish rates and charges comparable to the rates and charges of competing carriers and intends to establish through rates and routes between all points it will be authorized to serve.

The day-to-day business of applicant will be primarily operated by its two vice presidents, one of whom also manages Central. Central, in addition to its warehousing business, also conducts a subhauling business under its contract carrier permit and an unregulated terminal area operation. The other vice president has been actively employed in sales and operations for two California trucking companies over the past seven years. Applicant states that Central has been in the warehouse business since 1971 and has developed business relationships with numerous businesses in California who require warehousing and distribution services. Thus, applicant, through its affiliate, is aware of the transportation-distribution requirements of numerous shippers. Applicant states that existing carriers are largely unable to meet these requirements and that many of Central's leading customers have requested it to

secure the necessary operating authority to meet their needs. It is alleged that these customers are particularly dissatisfied with the inability of existing carriers to provide prompt pickup and consistent overnight service. Applicant states that the proposed operations are a logical extension of Central's existing warehouse operations.

Applicant states that inasmuch as applicant has not yet engaged in business, no financial statement of its operation is available.

The 100 shares of stock are to be issued and sold at \$40 a share as follows:

- 26 shares to John F. Alonso, Sr.
- 25 shares to John F. Alonso, Jr.
- 30 shares to John A. Jelaco
- 10 shares to Gerald J. Quinlan
- 9 shares to Stephen J. Alonso

(The application originally requested authority to issue an additional 100 shares to be held as treasury stock but by letter dated April 1, 1982, applicant informed the Commission that it was abandoning its request to issue these additional shares.) The proceeds of the sale of stock to the above-named persons will be used to provide working capital and acquire assets necessary to conduct the operations of a highway common carrier. There will be no public offering of the stock nor will there be any commission paid for its sale. Applicant states it is in a position to acquire additional capital, should it be needed, through borrowing or the sale of additional stock.

Rule 33 of the Commission's Rules of Practice and Procedure was amended by Resolution L-221 dated April 21, 1981, to exempt certain financial transactions of highway common carriers from the requisite approval of the Commission as described in Public Utilities (PU) Code §§ 816 et seq. The stock issue involved in this decision qualifies for the exemption.

Findings of Fact

1. Applicant requests authority to operate as a highway common carrier of general commodities, with the usual exceptions, between all points in California and to issue and sell 100 shares of its capital stock for \$40 per share.

2. The aggregate stock proceeds of \$4,000 will be adequate to initiate the proposed operation.

3. Applicant has 18 pieces of vehicular equipment which it intends to use in the proposed operation.

4. Daily overnight service will be provided Monday through Friday, and weekend and holiday service will be provided on request.

5. Applicant's rates and charges will be comparable to the rates and charges of competing carriers and it will provide through rates and routes between all points it is authorized to serve.

6. Applicant is and will be affiliated through common officers with a warehousing business.

7. Existing carriers are largely unable to meet the needs of its affiliate's customers for prompt pickup and delivery service and consistent overnight service.

8. Applicant will establish its home terminal on its affiliate's property and will thus be readily available to provide service to its affiliate's customers.

9. Applicant's principal officers have experience in the for-hire trucking business.

10. Public convenience and necessity require the issuance of the proposed certificate.

11. The stock issue is exempt from the need to obtain specific Commission approval under Rule 33(g) of the Commission's Rules of Practice and Procedure, which was adopted April 21, 1981.

12. A public hearing is not necessary.

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

14. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The requested authority to issue stock should be dismissed.
2. In all other respects, the application should be granted.
3. Rule 21(f) of the Commission's Rules of Practice and Procedure should be waived.

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. A certificate of public convenience and necessity is granted to BATCO Trucking, Inc., a California corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A.
2. Applicant shall:
 - a. File a written acceptance of this certificate within 30 days after this order is effective.
 - b. Establish the authorized service and file tariffs within 120 days after this order is effective.
 - c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.
 - d. Comply with General Orders Series 80, 100, 104, and 147, and the California Highway Patrol safety rules.
 - e. Maintain accounting records in conformity with the Uniform System of Accounts.

- f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariff provisions required by that General Order.

3. The authority requested to issue stock is dismissed, as the stock issuance is exempt under Rule 33(g) of the Commission's Rules of Practice and Procedure.

4. The service requirements prescribed by Rule 21(f) of the Commission's Rules of Practice and Procedure are waived in respect to this application.

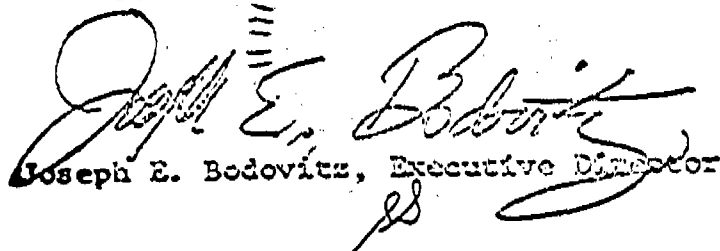
This order becomes effective 30 days from today.

Dated July 7, 1982, at San Francisco, California.

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

Commissioner John E. Bryson, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director

BATCO Trucking, 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:

Between all points 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. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.

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8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
13. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.
14. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

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)

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f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariff provisions required by that General Order.

SS ~~3. On or after the effective date of this order, but before September 30, 1982, for the purposes stated applicant may issue up to 100 shares of common stock of a stated value of \$40 per share.~~

~~4. The authority requested to issue stock is dismissed, as the stock issuance is exempt under Rule 33(g) of the Commission's Rules of Practice and Procedure.~~

~~5. The service requirements prescribed by Rule 21(f) of the Commission's Rules of Practice and Procedure are waived in respect to this application.~~

This order becomes effective 30 days from today.

Dated JUL 7 1982, at San Francisco, California.

RICHARD D. CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
FRISCILLA C. CREW
Commissioners

Commissioner John E. Bryson,
being necessarily absent, did
not participate.