

Decision 82 08 032 AUG 4 - 1982**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of A J & Elisabeth Vint)
 dba La Pierre Truck'g to transfer)
 his Highway Common Carrier Certi-)
 ficate and VINT'S TRUCKING, INC., a)
 California corporation, to acquire)
 said Certificate (Public Utilities)
 Code 851 and 1064.5).)

Application 82-04-41
 (Filed April 15, 1982)

O P I N I O N

A. J. and Elisabeth Vint, copartners doing business as La Pierre Trucking, request authority to transfer a certificate of public convenience and necessity to Vint's Trucking, Inc., a newly formed California corporation of which they are officers and sole stockholders.

Public Utilities (PU) Code § 1063.5 authorized holders of radial highway common carrier permits to convert their permits to highway common carrier certificates. In Decision (D.) 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 certificate was originally granted under PU Code § 1063.5 in Application GC-175 to David N. La Pierre and Kharron La Pierre, copartners doing business as La Pierre Trucking, for all counties in the State of California. It was subsequently transferred to A. J. and Elisabeth Vint, copartners doing business as La Pierre Trucking, by D.93753 dated November 13, 1981 in Application (A.) 60716. That transfer was subject to PU Code § 1064.5 in that the beneficial owner interest changed and, accordingly, only the counties actually exercised by transfer in that proceeding were transferred. The beneficial interest in this transfer remains the same. A. J. and Elisabeth Vint are merely changing the legal form of their business while continuing the same operations. In view of this similarity of circumstances with those covered in Resolution 18049, PU Code § 1064.5 is not applicable to this proceeding.

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 provisions of PU Code § 1064.5 do not apply to this proceeding.
4. 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 January 1, 1983, A. J. and Elisabeth Vint may transfer to Vint's Trucking, Inc. the operating authority issued under PU Code § 1063.5 in Application GC 175 and granted to A. J. and Elisabeth Vint by D.97353 dated November 13, 1981 in A.60716.

2. Within 30 days after the transfer, Vint's Trucking, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.

3. Vint's 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 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 Orders Series 80 and 147 (regulations governing the construction and filing of tariffs). Failure to comply may result in cancellation of the operating authority granted by this decision.

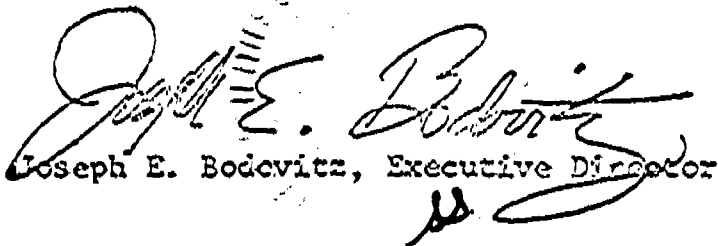
This order becomes effective 30 days from today.

Dated AUG 4 1982, at San Francisco,
California.

JOHN E. BRYSON
President
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
COMMISSIONERS

Commissioner Richard D. Gravello, being necessarily absent, did not participate in the disposition of this proceeding.

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


Joseph E. Bodevitz, Executive Director