

Decision 82 OS 03S AUG 4 - 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of WILLIAM D. MASSA for authority)	Application 82-05-51
to acquire control of APPLE CITY)	(Filed May 21, 1982)
TRANSPORT, INC.)	
_____)	

O P I N I O N

William D. Massa (Massa), an individual, requests authority to acquire control of Apple City Transport, Inc. (Apple), a highway common carrier and highway contract carrier, through the purchase of all of Apple's issued and outstanding stock from their owner, Timothy D. Layhee (Layhee) for a total of \$25,000 in accordance with the Agreement For Sale of Stock and exhibits (Agreement) attached to the application. Layhee joins in the application. Massa and Layhee also request that Rule 21(f) of the Commission's Rules of Practice and Procedure be waived. A copy of the application was served on California Trucking Association. The application was noticed in the Commission's Daily Calendar of May 25, 1982. No protests to the application were received.

The application shows that Apple has been operating profitably for the past eight years. Currently, it holds a statewide highway common carrier certificate to transport general commodities, with the usual exceptions, issued under Public Utilities (PU) Code Section 1063.5, an agricultural permit, and a highway contract carrier permit. It also has a certificate issued by the Interstate Commerce Commission authorizing it to operate between points in five states transporting specified commodities. It operates nine trailers and seven tractors. For the year ended September 30, 1981 it had gross revenue from hauling of \$2,114,000 and a net income after taxes

of \$17,600. As of that date Apple had a net worth of \$245,000. Total issued and outstanding stock of Apple amounts to 10,031 common shares, all of which are owned by Layhee, who states he is selling his shares in order to relieve himself of the burdens and responsibilities of owning and operating a highway common carrier. Layhee states that Apple is not a party to any through rates or joint rates with any other carrier and that there has been no suspension of its service within the preceding three years.

Massa states that he is acquiring the shares in Apple for the purpose of expanding his already existing business, which includes, among other things, the hauling of agricultural produce and other freight and the rental of equipment. For the year ended December 31, 1981 Massa's business returned total revenues of \$1,500,000.

The Agreement calls for the down payment of \$10,000, receipt of which is acknowledged in the Agreement, and the final payment of \$15,000 upon closing. No broker's or finder's fee is involved.

Massa and Layhee contend that the acquisition of control of Apple will in no way affect the competitive position or operations of Apple.

Findings of Fact

1. Massa requests authority to control Apple through the purchase from Layhee of all of the issued and outstanding stock of Apple.
2. Layhee requests authority to sell to Massa his stock which totals 10,031 common shares.
3. The total purchase price for the shares is \$25,000 cash.

4. The sale transaction between Massa and Apple is contained in the Agreement attached to the application.

5. Apple holds statewide highway common carrier authority from the Commission, and in addition, has an agricultural permit and a highway contract carrier permit.

6. Apple also has a certificate issued by the Interstate Commerce Commission authorizing it to operate between points in five states in the transportation of specified commodities.

7. Apple operates nine trailers and seven tractors.

8. Apple has been operating profitably for the past eight years.

9. Massa is financially able to pay the purchase price for the stock.

10. The acquisition of control of Apple by Massa will in no way affect the competitive position or operations of Apple.

11. The proposed transaction is not adverse to the public interest.

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

13. A public hearing is not necessary.

The action taken shall not be construed as a finding of value of the capital stock of Apple.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1982 William D. Massa may obtain control of Apple City Transport, Inc. through the purchase of stock as set out in the Agreement For Sale of Stock, including the exhibits, attached to the application.

2. The requirements of Rule 37(a) of the Commission's Rules of Practice and Procedure are waived.

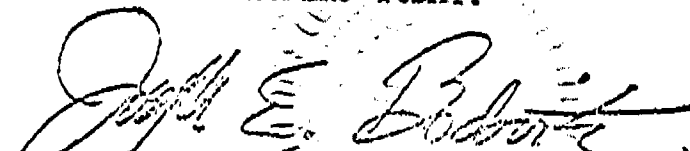
This order becomes effective 30 days from today.

Dated AUG 4 1982 , at San Francisco, California.

JOHN E. BRYSON
President
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
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. Bodovitz, Executive Director