

ORIGINAL

Decision 83 01 021 JAN 12 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

O'Neil Moving & Storage, Inc.,)
Richard and Shirley O'Neil,)
O'Neil Moving Systems, Inc.,)
applicants, for authorization to)
acquire or control of public)
utility and highway permit)
carrier under Sec. 854 and 3551)
of the Public Utility Code.)

Application 82-08-25
(Filed August 11, 1982)

O P I N I O N

O'Neil Moving Systems, Inc. (Systems), a California corporation, seeks authority for the acquisition of control, and for the purchase of all the outstanding shares of O'Neil Moving & Storage, Inc. (M&S), a California corporation, from Richard and Shirley O'Neil (the O'Neils).

M&S has been a family-owned business transporting household goods since 1960. The O'Neils have always owned all of the shares of stock. William and Dan O'Neil, children of Richard and Shirley O'Neil, have operated the business for more than 10 years.

Systems was incorporated in 1979; all of the shares in this corporation are owned by William and Dan. It was originally intended to engage in nontransportation businesses. Recently, however, it decided to engage in the moving business and filed an application to transfer the household goods carrier permit of M&S to itself. Accordingly, M&S' household goods carrier permit (T-137,514) was transferred to Systems on June 3, 1982.

The transaction for which authority is now sought would place Dan and William in direct control of a highway permit carrier, and, through Systems, in indirect control of M&S.

Authority for this change of control is necessary because M&S holds § 1063.5^{1/} common carrier authority (GC-2887). In App. of Sequin Decision 93885 in Application 60521 (1981) we found that § 854 was applicable to a transaction involving control of such a carrier and that § 1064.5 was not. Since § 1064.5 is not applicable, there is no need to consider the scope of M&S' authority; it will retain a statewide certificate after the change in control.

We also note that this is an intrafamily transfer, that the new beneficial owners were previously in a position to manage and operate M&S, and that their corporation already holds part of M&S' original operating authority.

M&S' gross operating revenue as a carrier as shown in its annual report was well under \$5 million even when it still retained its household goods authority. Therefore, applicants need no authority for the issuance of a \$500,000 note which Systems will issue to pay for the stock (Rule 33(g) of Rules of Practice and Procedure).

Notice of the filing of this application appeared in the Commission's Transportation Calendar on August 16, 1982. No protests have been received and a public hearing is not necessary.

Findings of Fact

1. M&S holds a Section 1063.5 highway common carrier certificate, and a highway contract carrier permit, which would be controlled by Systems if the proposed transfer of control of M&S to Systems is granted.

2. The proposed transfer of control is not adverse to the public interest.

3. The proposed transfer will have no effect on the energy efficiency of carriers.

4. Systems proposes to issue a \$500,000 note to pay for the stock. The combined carrier revenue of Systems and M&S did not exceed \$5,000,000 in 1981.

^{1/} All references are to the Public Utilities Code.

5. A public hearing is not necessary.

Conclusions of Law

1. § 1064.5 is not applicable to this proposed transfer of control; Section 854 is applicable.

2. The application should be granted.

3. Applicants need no authority for the issuance of a note to pay for the stock.

The action taken shall not be construed as a finding of value of the stock of M&S.

O R D E R

IT IS ORDERED that:

1. O'Neil Moving Systems, Inc. is authorized to purchase the stock of, and exercise management control over, O'Neil Moving & Storage, Inc.

2. This authorization shall expire unless exercised prior to July 1, 1983.

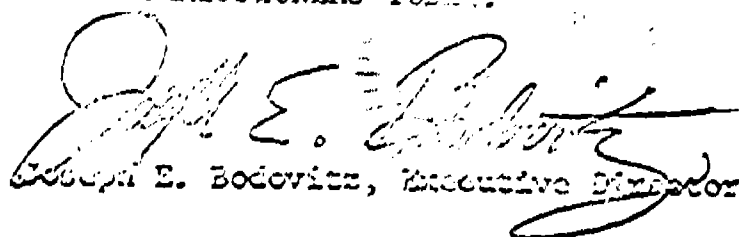
This order becomes effective 30 days from today.

Dated JAN 12 1983, at San Francisco,
California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director