

Decision: 83 05 072 MAY 18 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Best-Way Freight Lines of )  
Arizona, a California corporation, )  
for authority to transfer its )  
highway common carrier certificate )  
of public convenience and )  
necessity in a continuity-in- )  
interest transaction to Best-Way )  
Transportation, an Arizona )  
corporation, pursuant to Sections )  
851-853 of the California Public )  
Utilities Code. )

Application 83-01-13  
(Filed January 10, 1983)

O P I N I O N

Applicant Best-Way Freight Lines of Arizona (Best-Way Freight) is a corporation under the laws of the State of California with its principal place of business in Phoenix, Arizona. A certified copy of its Articles of Incorporation is on file with the Commission in File T-26,188.

Applicant Best-Way Transportation is a corporation organized and existing under the laws of the State of Arizona with its principal place of business in Phoenix, Arizona. A certified copy of its Articles of Incorporation is on file with the Commission in Application (A.) 82-04-68. A copy of the certificate of qualification attesting to its qualification to do business as a foreign corporation in California is attached to this application.

Best-Way Freight conducts operations as a highway common carrier under a certificate originally issued to California Contract Carriers, Inc. which was transferred to Best-Way Freight by Decision (D.) 82-08-044 dated August 4, 1982 in A.82-04-68. The certificate authorizes the transportation of general commodities, with the usual exceptions, throughout most of the State of California. Best-Way Freight also holds a highway contract carrier permit under File T-26,188, the disposition of which is not part of this application.

Best-Way Transportation is an experienced interstate motor common carrier. It serves all points within and between the States of California, Nevada, Utah, Colorado, New Mexico, and Arizona, as well as El Paso, Texas, and all points on Interstate Highway 80 in the State of Wyoming, under authorities issued by the Interstate Commerce Commission in Docket No. MC-112123.

Both applicants are wholly owned by the same individuals. The instant application does not involve any change in control or beneficial ownership. It is a continuity-of-interest transfer of authorities from one affiliated corporation to another. The transfer will simplify various accounting and recordkeeping functions. It is estimated that the certificate to be transferred to Best-Way Transportation will provide revenue of \$1,200,000 during the first year of operation. A 16-page financial statement on Best-Way Freight is attached to the application.

Applicants request a waiver of the service required under Rule 37(a) of the Commission's Rules of Practice and Procedure. It is alleged that a copy of the application has been sent to the California Trucking Association, which will publish notice thereof in its weekly Caltrux publication distributed to all of its members. It was also published in the Commission's Daily Calendar on January 13, 1983. There have been no protests or requests for a public hearing.

Findings of Fact

1. The proposed transfer of the certificate acquired by Best-Way Freight under D.82-08-044 would not be adverse to the public interest.
2. Best-Way Transportation has the necessary experience and financial resources to conduct the proposed operation.
3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.
4. A public hearing is not necessary.

Conclusions of Law

1. The proposed transfer is not adverse to the public interest and should be authorized.

2. Applicants' request for relief from the provisions of Rule 37(a) is moot as that rule no longer requires service of the application upon competing carriers and others.

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. Best-Way Freight Lines of Arizona may transfer the operative rights specified in the application to Best-Way Transportation. This authorization shall expire if not exercised by July 1, 1983, or within such additional time as the Commission may authorize.

2. Transferee shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the transfer document within 30 days after transfer.
- b. Amend or reissue transferor's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- d. File an annual report of transferor's operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. When the transfer is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Best-Way Transportation, a corporation, authorizing it to operate as a highway common carrier, as defined in Public Utilities Code § 213, between the points set forth in Appendix A, to transport general commodities, with certain exceptions.

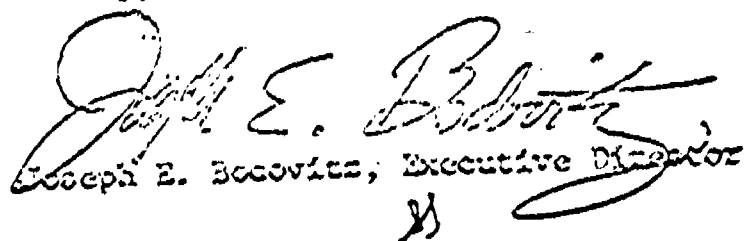
4. The certificate of public convenience and necessity granted by Decision 82-08-044 is revoked on the effective date of the tariffs.

This order becomes effective 30 days from today.

Dated MAY 18 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
FRISCELLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bocovitz, Executive Director

Best-Way Transportation, 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:

Within and between all counties in the State of California except the Counties of Inyo, Modoc and Mono.

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 public streets, roads, highways and bridges necessary or convenient for the performance of this service.

(END OF APPENDIX A)

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