

Decision 83 08 016 AUG 3 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
Edwin N. Bacorn and Jill Bacorn,  
husband and wife doing business as  
Bisher Freight Service, for a  
certificate of public convenience and  
necessity to operate as a highway  
common carrier for the transportation  
of general commodities, with certain  
exceptions, in intrastate commerce  
between points in Imperial, Los  
Angeles, Orange, Riverside, San  
Bernardino, San Diego, and Ventura  
Counties.

Application 83-01-11  
(Filed January 7, 1983)

O P I N I O N

Applicants, Edwin N. Bacorn and Jill Bacorn, husband and wife, doing business as Bisher Freight Service, request a certificate to operate as a highway common carrier between points and places in the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the transportation of general commodities with the usual exceptions. Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar of January 12, 1983. No protests to the application have been received.

Applicants currently operate as a highway common carrier between certain points and over certain routes in San Diego County under a certificate issued in Decision (D.) 91762 dated May 6, 1980 in Application 59428. That authority is the subject of a Certificate of Registration issued by the Interstate Commerce Commission (ICC) in its Docket No. 4363 (Sub 3). No interstate rights are sought in this application. Applicants also operate as a highway contract carrier statewide under File T-132,115. In the conduct of those operations, applicants use five trucks, four of which have liftgates. For the

first nine months of 1982, applicants had gross revenues of \$146,000 and a net loss of \$6,700. As of September 30, 1982, applicants had a net worth of \$78,400.

Under the proposed operation, applicants intend to provide service Monday through Friday and, upon request, on Saturdays, Sundays, and holidays. Service will be same day or overnight depending on when the shipment is offered to applicants and the distance between origin and destination. Applicants propose to establish rates substantially in conformity with the rates and charges presently published in the tariffs of an established tariff bureau or in conformity to the rates and charges approved by the Commission.

The application shows that applicants have received and continue to receive many requests from various shippers for transportation between points which are within applicants' contract carrier authority but are outside applicants' common carrier authority. Applicants feel that in order to satisfy these requests, applicants' operation would constitute that of a common carrier. Additionally, applicants find that most debtors will not sign contracts with carriers.

Applicants submitted statements from seven shippers in support of the application. These shippers are: Nabisco Brands, Montecito Growers & Processors, Morton Jones Company, Aim Kiln Manufacturing Company, Millidyne Services Incorporated, Dennis Munyon, and Homestead Products. The supporting shippers collectively attest to applicants' reliable service over the years and the need for the requested service.

#### Findings of Fact

1. Applicants request a certificate to operate as a highway common carrier between points in the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura to transport general commodities with the usual exceptions.

2. Applicants currently operate as a highway contract carrier statewide. Applicants also hold a highway common carrier certificate, with a coextensive certificate of registration from the ICC, authorizing operations between certain points and over certain routes in San Diego County.

3. In the conduct of their operations applicants use five trucks.

4. As of September 30, 1982, applicants had a net worth of \$78,400.

5. Applicants' contract carrier business has grown so that it borders on common carriage.

6. Applicants find that their shippers will not sign contracts with carriers.

7. In order to satisfy the many requests of their shippers and to better serve them, applicants require a certificate to operate as a highway common carrier.

8. Seven shippers support the application and attest to a need for the proposed service.

9. Applicants are financially fit to conduct the proposed operation.

10. Public convenience requires the granting of the requested certificate.

11. A hearing is not necessary.

12. 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 application should be granted to the extent following.

2. To avoid duplication, the territory authorized by D.91762 should be deleted from the scope of authority granted in this application.

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 Edwin N. Bacorn and Jill Bacorn, a partnership, authorizing them to operate as a highway common carrier, as defined in PU Code § 213, between the points listed in Appendix A.

2. Applicants 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 their 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, 123, 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 applicants elect not to transport collect-on-delivery shipments, they shall file the tariff provisions required by that General Order.

- g. Comply with General Order Series 102 and 130. If applicants elect to engage subhaulers, applicants shall have the required bond on file, and applicants shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

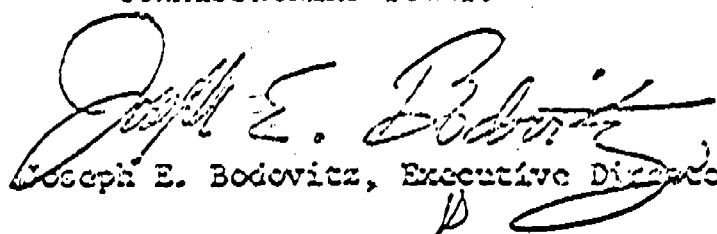
This order becomes effective 30 days from today.

Dated AUG 3 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREN  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

Edwin N. Bacorn and Jill Bacorn, by the certificate of public convenience and necessity granted in the decision noted in the margin, are 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 the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, except for those points and over those routes authorized by Decision 91762 dated May 6, 1980 in Application 59428.

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.

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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.
8. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
9. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
10. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
11. 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.
12. 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)