

Decision 83 10 049 OCT 19 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of Certified Freight Lines, Inc., to abandon its common carrier certificate as it affects the transportation of fresh fruit, fresh vegetables and empty containers. )  
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Application 83-07-38  
(Filed July 21, 1983)

O P I N I O N

Certified Freight Lines, Inc. (Certified), requests that its highway common carrier operating authority be amended to exclude the transportation of fresh fruits, fresh vegetables, and empty containers. Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar of July 25, 1983. No protests to the application have been received.

By Decision (D.) 83-06-83 the Commission canceled Minimum Rate Tariff (MRT) 8-A effective July 29, 1983. MRT 8-A named minimum rates, rules, and regulations for the transportation of fresh fruits, fresh vegetables, and empty containers by permitted carriers. Due to the rate deregulation of those commodities, Certified is desirous of not being required to handle those commodities in highway common carrier nonexempt rate service but, rather, in its rate exempt agricultural carrier service. Certified contends that there will be sufficient highway carrier service to transport the subject commodities and that public convenience and necessity will not be adversely affected by the exclusion of the subject commodities from its certificates.

Certified possesses two highway common carrier certificates. One certificate, GC 3326, was issued under Public Utilities Code (PU Code) § 1063.5 January 31, 1980 and authorizes the transportation of general commodities with certain exceptions not here pertinent. Because of the special circumstances under which this type of certificate was issued,<sup>1</sup> we foresaw the possibility that carriers would want to expand or reduce service under those certificates. In Appendix C of D.89575 (84 CPUC 466, 493) we set forth the method by which such certificate holders could expand or reduce their service:

"c. Grandfathered Section 1063.5 common carriers are put on notice that they may expand or reduce service simply by filing or canceling tariffs for a five-year period without a showing before the Commission that public convenience and necessity require such expansion or reduction..."

Hence, Certified does not require Commission authority to exclude the subject commodities from its certificate issued under PU Code § 1063.5. Certified need only amend its highway common carrier tariffs to exclude the subject commodities, thereby effectively amending that certificate. For this reason we will deny Certified's request to amend this particular certificate without prejudice to Certified taking steps to amend the certificate by the method set out.

The other certificate held by Certified was issued under PU Code § 1063 in D.77698 dated September 1, 1970. That certificate authorizes only the transportation of the following commodities:

"...fresh or green fruits and vegetables, in their natural form (except cold pack or frozen or when moving to canneries), including fresh mushrooms (not cold pack or frozen), and empty carriers returning..."

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<sup>1</sup> See 84 CPUC 466.

Amending this certificate to exclude the subject commodities would make the rest of the certificate a nullity since there would be no commodity authorization left in the certificate. However, cancellation of the certificate would be in line with Certified's request to eliminate from its highway common carrier certificate the authority to transport the subject commodities in its highway common carrier service.

Findings of Fact

1. Certified requests that its highway common carrier certificates be amended to exclude the transportation of fresh fruit, fresh vegetables, and empty containers.

2. Certified possesses a certificate issued under PU Code § 1063.5.

3. A carrier holding a certificate issued under PU Code § 1063.5 at the present time may voluntarily restrict the commodities it can haul under such certificate by amending its highway common carrier tariff to exclude those commodities from its tariff.

4. At this time no special authority from the Commission is required for a carrier to reduce its service under a certificate issued under PU Code § 1063.5 so as to restrict the hauling of fresh fruits, fresh vegetables, and empty containers.

5. Certified also holds a certificate issued under PU Code § 1063 which allows it to haul only fresh fruits, fresh vegetables, and empty containers.

6. Amending Certified's PU Code § 1063 certificate to exclude the subject commodities would render its certificate a nullity.

7. Canceling Certified's PU Code § 1063 certificate would be in line with Certified's request to eliminate the subject commodities from its highway common carrier authority.

8. Certified has an Agricultural Carrier Permit under which it may transport the subject commodities.

9. Cancellation of Certified's PU Code § 1063 certificate would not be adverse to public convenience and necessity.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

11. A public hearing is not necessary.

Conclusions of Law

1. Certified's request that the Commission amend its PU Code § 1063.5 highway common carrier certificate should be denied.

2. Certified's PU Code § 1063 highway common carrier certificate should be canceled.

O R D E R

IT IS ORDERED that:

1. The highway common carrier certificate issued to Certified Freight Lines, Inc. in Appendix C of D.77698 is canceled.

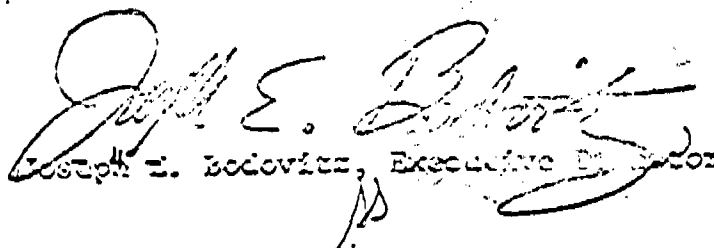
2. The request of Certified Freight Lines, Inc. that the Commission amend its PU Code § 1063.5 certificate is denied without prejudice to that carrier taking steps to amend that certificate by the method previously set out in this decision.

This order becomes effective 30 days from today.

Dated OCT 19 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREY  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director