

ORIGINAL

Decision 83 11 072 NOV 22 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
LEE WAY MOTOR FREIGHT, INC. for)
Authority to Sell its Terminal in)
Hayward, California, to Overnite)
Transportation Co., Pursuant to)
Section 851 of the Public Utilities)
Code.)

Application 83-09-88
(Filed September 30, 1983)

O P I N I O N

By this application, Lee Way Motor Freight, Inc. (Lee Way), a Delaware corporation, proposes to sell its terminal located at Hayward, California, to Overnite Transportation Co. (Overnite), under Public Utilities (PU) Code § 851.

Lee Way operates in intrastate commerce under PU Code §§ 1063 and 1063.5 highway common carrier certificates, and highway contract and heavy specialized carrier permits under File T-76,263. It also performs interstate operations under appropriate authority issued by the Interstate Commerce Commission (ICC). Overnite performs interstate operations under authority issued by the ICC and possesses no intrastate authority.

The property in question consists of approximately 6.6 acres of land and improvements, including a terminal facility used in performing service for the public.

Lee Way states that only a limited portion of the transportation being handled through the Hayward terminal is in intrastate commerce. In the period between December 26, 1982, and September 3, 1983, only \$103,515, or 1.46%, of the \$7,095,929 in revenues generated by that facility involved intrastate transportation. Lee Way further states that the facility is substantially underutilized at present and is likely to remain so at projected traffic volumes.

Lee Way will receive \$1,250,000 for the transfer of the terminal property to Overnite. The purchase is expected to be paid in full by the end of January 1984. Through a leaseback of one-half of the terminal facility, Lee Way will continue to have access to the property. It states that its performance of service to the public will not be adversely affected by approval of the transaction.

A copy of the application was served on the California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of October 5, 1983. No protests have been received.

In view of tax and accounting advantages to applicant and its parent company, Pepsi-Co., applicant has requested that the order be made effective by December 31, 1983.

Findings of Fact

1. Lee Way proposes to sell or transfer its terminal property located in Hayward, California, to Overnite Transportation Co. for the sum of \$1,250,000.

2. Lee Way will lease back one-half of the terminal facilities on the property and will continue to utilize one-half the facility in its interstate and intrastate transportation operations.

3. There is a relatively small amount of intrastate revenue generated through the Hayward facility, which will continue to be handled through one-half of that facility by Lee Way as lessee.

4. The transfer of ownership of the property will not have an adverse effect on the availability or standard of service rendered by Lee Way to the public.

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

6. A public hearing is not required.

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

8. The order should be effective immediately in view of tax and accounting advantages for Lee Way and its parent company, Pepsi-Co.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. Lee Way Motor Freight, Inc., a Delaware corporation, may sell, or transfer, as specified in the application, its terminal facility at Hayward, California, to Overnite Transportation Co.

2. This authorization shall expire if not exercised by December 31, 1983, or within such additional time as the Commission may authorize.

This order is effective today.

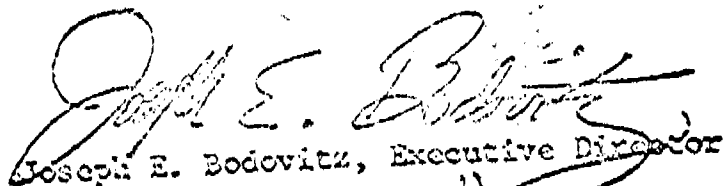
Dated NOV 22 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. CREW
WILLIAM T. BAGLEY
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director