

Decision 83 11 102 NOV 30 1983

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Robert G. Soto for authority to )  
control B & M Trucking. )

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Application 83-10-14  
(Filed October 6, 1983)

O P I N I O N

Robert G. Soto requests authority to control B & M Trucking (B & M), a California corporation. B & M's Articles of Incorporation were filed with the California Secretary of State's office on March 3, 1969 and have not been amended. A certified copy of the articles has previously been filed with the Commission and a copy is attached to this application.

B & M operates as a highway common carrier under a Public Utilities (PU) Code § 1063.5 certificate issued January 31, 1980 (GC 6031, File T-92,334). It also holds highway contract carrier and agricultural carrier permits. Its office and terminal are located in El Monte.

Following is a summary of the information and financial data set forth in the application and attachments to it:

1. B & M's Articles of Incorporation authorize the issuance of 20,000 shares of stock with a par value of \$10.00 each. Soto and Alfonso R. Virgil were each issued 50 shares at the par value price of \$500. None of the remaining authorized shares have ever been issued.
2. The 50 shares held by Virgil, which represented a one half ownership interest in the corporation, were redeemed on February 1, 1983 by B & M for \$84,800. Soto continues to hold the remaining 50 outstanding shares and is now the 100% owner and president of the company.

3. As of April 30, 1983, B & M had assets of \$226,574, liabilities of \$287,428, and a negative net worth of \$60,854. The \$84,800 for the stock redemption, \$82,525 of which is covered by a note issued by B & M to Virgil, is shown as a deduction under net worth.
4. For the first four months of 1983, B & M had freight revenue of \$390,942 and a net loss of \$21,746.21.
5. As of July 31, 1983, Soto and his wife had assets of \$445,000, liabilities of \$52,500, and a net worth of \$392,500.
6. The change in control of B & M to Soto alone does not affect the operation of the company and will have no significant effect upon the human environment or energy efficiency.

PU Code § 1064.5 prohibits the transfer of § 1063.5 certificates during the first five years after issuance except to the extent of operations actually conducted as a prime carrier. Here we have the vesting of 100% interest in the business in an individual who previously held a 50% interest and a continuation of the same business concern. Such a change is not a transfer within the meaning of § 1064.5.

The application was listed on the Commission's Daily Transportation Calendar of October 13, 1983. A copy was served on the California Trucking Association. No protest has been received.

The transfer will be authorized. Because the stock redemption has already been executed, the following order should be made effective on the date it is issued.

Findings of Fact

1. The transaction in issue is not adverse to the public interest.
2. Soto should be authorized to assume 100% control of B & M.

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

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

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

6. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted.

2. Because there is an immediate need for the sought authority, the following order should become effective on the date of issuance.

O R D E R

IT IS ORDERED that:

1. Robert G. Soto may control B & M Trucking, a California corporation.

2. A copy of the stock redemption and security agreements between B & M and Alfonso R. Virgil shall be filed with the Commission within 10 days after the effective date of this order.

This order is effective today.

Dated NOV 30 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO

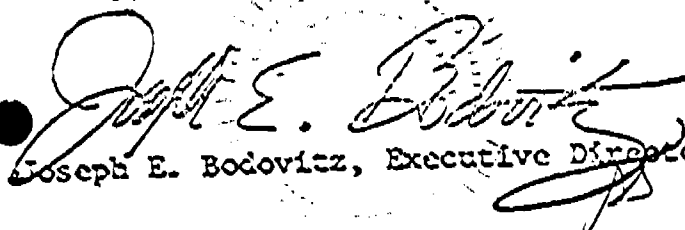
PRISCILLA C. CREW

WILLIAM T. BAGLEY

Commissioners

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

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

  
Joseph E. Bodovitz, Executive Director