

ORIGINAL

Decision No. 87885 SEP 20 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of )  
LEASEWAY TRANSPORTATION CORP., )  
a Delaware corporation, and )  
MAGAZINE DISTRIBUTORS OF CALIF- )  
ORNIA, INC., a California cor- )  
poration, for authority to con- )  
trol GENERAL TRUCKING SERVICE, a )  
California corporation, for )  
purposes of merging the latter )  
into MAGAZINE DISTRIBUTORS OF )  
CALIFORNIA, INC., and to trans- )  
fer the latter's certificated )  
highway common carrier rights )  
to the surviving company, )  
pursuant to Sections 851-854 of )  
the Public Utilities Code. )

Application No. 57444  
(Filed July 13, 1977)

O P I N I O N

By their joint application, Leaseway Transportation Corp. (a Delaware corporation - "LEASEWAY"), and Magazine Distributors of California, Inc. (a California corporation - "MAGAZINE") seek this Commission's authority to (1) acquire control of General Trucking Service (a California corporation - "GENERAL", as well as two of its affiliated companies) through an exchange of common stock valued at \$2,034,375; and (2) then to merge GENERAL into MAGAZINE, as the surviving corporation.

A similar application under Section 5 of the Interstate Commerce Act, has been filed with the Interstate Commerce Commission (I.C.C.) under its Docket No. MC-F-13240 and that application is pending.

LEASEWAY is a non-carrier holding and management company not directly engaged in motor carrier transportation. As a holding company, it presently controls nine I.C.C. regulated interstate carriers holding interstate authorities, including MAX BINSWANGER TRUCKING, a California corporation, operating under a California cement carrier certificate which is not involved herein.

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In addition LEASEWAY exercises stock control of nine other subsidiary corporations which are engaged in public warehousing, leasing and service operations, local cartage or intrastate carrier operations, all in California.

GENERAL is a California intrastate highway common carrier operating under a certificate last amended by Decision 61534 dated February 21, 1961 in Applications 35856 and 42445. The certificate authorizes the transportation of printed matter, viz.: books, magazines and periodicals; newspaper or magazine display racks; and iron or steel wire between points within the Los Angeles Territory, as defined; and between the City of Los Angeles and 21 other specified California cities. These operating rights are restricted against service at intermediate points and against the application of through or joint rates. Said certificate is registered with the I.C.C. under Docket No. MC-120706 (Sub. No. 1).

MAGAZINE is a newly-organized, corporate subsidiary of LEASEWAY which controls the former through stock ownership. According to the "Plan and Agreement of Reorganization" (Exhibit C-1 of the application), on the date of merger all of the common stock in the following three companies, owned solely by Mr. Albert Borchard, president of each, is to be delivered to MAGAZINE for cancellation:

<u>Company</u>	<u>Value of Common Stock Shares</u>
(a) GENERAL TRUCKING SERVICE	\$ 936,000
(b) General Transportation Co. (a Calif. permitted carrier)	\$ 630,375
(c) Pacific Coast Leasing, Inc.	<u>\$ 468,000</u>
Total Value	\$2,034,375

In return for surrendering all of his stock in the three companies named above, Mr. Borchard is to receive a total value of \$2,034,375 in shares of common stock of LEASEWAY, the parent company, which value shall be convertible at a future date into an equivalent number of shares of LEASEWAY's common stock based on the N.Y.S.E. market price per share at that time.

Following the proposed exchange of stock between the parties as discussed above, and upon final approval of the entire proposal by both the federal and state commissions, the two applicants involved in the merger, GENERAL (with its two affiliates) and MAGAZINE will effect a "Closing" and then execute an "Agreement of Merger" (Exhibit "A" of C-1). Pursuant to this agreement, GENERAL's certificate and properties plus the properties of its two affiliates named above would be collectively merged into MAGAZINE. In turn, the separate existence of those three companies would cease upon said merger date, and thereupon, MAGAZINE would become the surviving company and operator of GENERAL's certificated trucking operations. Applicants state that they do not anticipate any reduction in the availability of transportation service to the public if the proposed transactions are approved.

In a matter directly related to this application, MAGAZINE has filed a separate application with the I.C.C. seeking authority to convert GENERAL's Certificate of Registration into a Certificate of Public Convenience and Necessity. Notice of the filing of said application has appeared in the Federal Register as required.

The application contains the following financial data for each applicant involved:

(a) GENERAL's balance sheet of March 31, 1977 which shows assets of \$212,944; liabilities of \$73,465; and net worth of \$139,479.

(b) MAGAZINE's beginning balance sheet of March 31, 1977 shows assets of \$50,000; net worth of \$50,000 with no liabilities.

MAGAZINE was formed solely for the purpose of rendering transportation services pursuant to the interstate and intrastate motor carrier operating authorities of GENERAL and its trucking affiliate General Transportation Company.

(c) LEASEWAY's statements of consolidated earnings for the calendar years 1974, 1975 and 1976 show net earnings by that company of \$18,089,063; \$21,657,918; and \$26,915,515, respectively. The company's earnings per share for each of those years were \$2.31, \$2.80 and \$3.47, respectively, adjusted for all stock

dividends, including the stock dividend paid in January of 1977.

The individual balance sheet statements of MAGAZINE and LEASEWAY, they assert, establish their financial fitness as well as their ability to perform a transportation service consistent with their obligations to the public. Granting of this application would do no more than authorize the present sole stockholder of GENERAL and its two affiliated companies to exchange his common stock therein for an equal value of common stock in "LEASEWAY", the parent holding company of MAGAZINE, in return for transferring his certificated operating rights and properties to MAGAZINE through a merger of the two companies. It appears that no adverse competitive effect on any existing carrier would result from granting such authority since only an exchange of common stock and a transfer of GENERAL's existing intrastate certificate to MAGAZINE through the proposed merger are involved rather than the issuance of new operating authority.

Upon approval of these stock transactions and consummation of the proposed merger, MAGAZINE intends to adopt the same individual highway common carrier tariff rates currently published by GENERAL and on file with this Commission.

The applicants request a waiver from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of such applications as they believe no other motor carrier interests will be affected by these transactions.

After consideration, the Commission finds that:

1. Control of GENERAL by LEASEWAY, the holding company, and its subsidiary MAGAZINE through an exchange of their common stock as proposed in the application, for the purpose of merging GENERAL into MAGAZINE, would not be adverse to the public interest.
2. The transfer of GENERAL's California intrastate certificate authority to MAGAZINE through a merger of said companies, with MAGAZINE as the surviving corporation, would not be adverse to the public interest.

The Commission concludes that the acquisition of control of General Trucking Service by Leaseway Transportation Corp. and its wholly-owned subsidiary, Magazine Distributors of California, Inc., and authority for General Trucking Service to transfer its certificate to Magazine, should be authorized. A public hearing is not necessary. The action taken herein shall not be construed as a finding of value of the capital stock of either General Trucking Service or that of Leaseway Transportation Corp.

O R D E R

1. Leaseway Transportation Corp. and its wholly-owned subsidiary company, Magazine Distributors of California, Inc., may control General Trucking Service, a highway common carrier, and two of its affiliated companies, General Transportation Company and Pacific Coast Leasing, Inc.

2. Within ninety days after the effective date hereof, Leaseway Transportation Corp., Magazine Distributors of California, Inc. and General Trucking Service through its president and sole stockholder, Mr. Albert Borchard shall each file a written report informing this Commission whether or not the change in control of General Trucking Service has been completed.

3. Upon the filing of an enabling order issued by the Interstate Commerce Commission under Section 5 of the Interstate Commerce Act in Proceeding No. MC-F-13240, General Trucking Service may transfer the certificated operating rights granted to it by this Commission in Decision 61534 and may merge with Magazine Distributors of California, Inc., as the surviving corporation.

4. Upon approval by the Interstate Commerce Commission of the transactions involved in its Docket No. MC-F-13240, Leaseway Transportation Corp., Magazine Distributors of California, Inc.

and General Trucking Service shall each file a written report to this Commission informing it whether or not the proposed merger of General Trucking Service into Magazine Distributors of California, Inc., as the surviving corporation has been consummated.

5. Upon receipt of the written reports required by paragraphs 2 and 4 above, this Commission will issue a supplemental order for the purpose of issuing an in-lieu certificate, in appendix form, to Magazine Distributors of California, Inc. and revoking the certificate of General Trucking Service.

6. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

The effective date of this order is twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of SEPTEMBER, 1977.

Robert Bateman  
President  
William Lyons, Jr.  
Vernon L. Lingen  
Richard P. Chavala  
Clare L. Desrich  
Commissioners