

ORIGINAL

Decision No. 92130 AUG 19 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
for an order approving transfer )  
of ownership of SENATOR TRUCK )  
SERVICE, a California Highway )  
Common carrier from the estate )  
of Lester Burleson to Robert )  
Garebedian under the provisions )  
of Sections 851 and 3606 of the )  
Public Utilities Code. )

Application No. 59710  
(Filed June 3, 1980)

O P I N I O N

Ralph Lee Burleson, as executor of the estate of Lester Lee Burleson, requests authority to transfer to Robert Garebedian a certificate of public convenience and necessity granted pursuant to Section 1063.5 of the Public Utilities Code.

Lester Lee Burleson and Robert Garebedian were general partners doing business as Senator Truck Service until the death of Lester Lee Burleson on December 16, 1979. On April 22, 1980 Ralph Lee Burleson was appointed as executor of the estate of Lester Lee Burleson by the Superior Court of California, County of Orange.

Section 1063.5 authorizes holders of radial highway common carrier permits to convert their permits into highway common carrier certificates of public convenience and necessity. By Decision No.- 89575 dated October 31, 1978, as amended, the Commission found that during the first five-year period after the Section 1063.5 certificates become operational, the carriers may expand or contract operations conducted pursuant thereto by making appropriate tariff filings. This procedure preserves the opportunity,

presently available under radial permits, for carriers to develop and shape their operations based upon their managerial objectives. Section 1064.5 of the Public Utilities Code prohibits the transfer of Section 1063.5 certificates during the first five years after issuance except to the extent of operations actually conducted as a prime carrier. By Resolution No. 18049 dated July 31, 1979, this Commission recognized that in the normal course of events many businesses experience transformations of their legal form while maintaining a continuation of the same business concern. As a result, certain types of transfers of Section 1063.5 highway common carrier certificates were held not to be transfers within the meaning of Section 1064.5, including a change in the form or makeup of the business entity where a partnership is dissolved and one or more of the surviving partners wish to remain in business. Because the instant application falls within this category, the transfer will be authorized without need for compliance with all of the usual service regulations relating to transfers.

Findings of Fact

1. After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

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

We conclude the application should be granted.

Robert Garebedian is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State

as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R


IT IS ORDERED that:

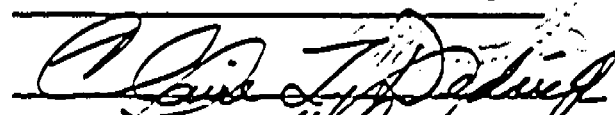
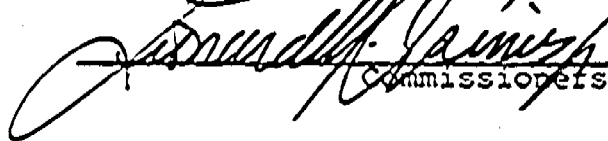
1. On or before February 1, 1981, Ralph Lee Burleson, as executor of the estate of Lester Lee Burleson, may transfer to Robert Garebedian the operating authority issued pursuant to Section 1063.5 of the Public Utilities Code and as set forth in Application No. GC 604.
2. Within thirty days after the transfer Robert Garebedian shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. Robert Garebedian shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that he has adopted or established, as his own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings made pursuant to this order shall comply in all respects with the

regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

The effective date of this order shall be thirty days after the date hereof.

Dated     AUG 19 1980    , at San Francisco, California.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
  
Commissioners

Commissioner Richard D. Gravello, being necessarily absent, did not participate in the disposition of this proceeding.