

ORIGINAL

Decision No. 92722 FEB 16 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Art Whipple, Inc. to acquire)
from Arthur L. Whipple, doing)
business as Art Whipple Trucking,)
a certificate of public convenience)
and necessity issued pursuant to)
Section 1063.5 of the Public)
Utilities Code.)

Application No. 59999
(Filed October 9, 1980)

O P I N I O N

By this application Arthur L. Whipple, doing business as Art Whipple Trucking (Art Whipple), seeks authority to transfer his high-way common carrier certificate to Art Whipple Trucking, Inc. All of the outstanding stock of corporation is owned and held by the individual. Art Whipple possesses a common carrier certificate by virtue of Section 1063.5 of the Public Utilities Code contained in File No, T-113,147. The certificate was assigned GC-8037 which became effective on May 1, 1980. Art Whipple has conducted operations thereunder and there has not been any suspension or discontinuance of that service.

The application was duly noticed and published in the Commission's Daily Calendar of October 14, 1980. No protests have been received.

Findings of Fact

1. A public hearing is not necessary.
2. Art Whipple holds 100 percent stock interest in the corporation.
3. Resolution No. 18049 dated July 31, 1979 allows the transfer of Section 1063.5 certificates intact without regard to exercise of the authority, including subhauling where the transferor, as transferee, will hold the majority beneficial interest in the certificate.
4. It can be seen with certainty that there is no possibility that the the transfer may have a significant effect on the environment.
5. The order herein complies with the guidelines set forth in the Commission's energy efficiency plan.

Conclusions of Law

1. Art Whipple meets the requirements of Resolution No. 18049 wherein the transferor, as transferee, will hold the majority beneficial interest in the certificate.
2. The transfer will not be adverse to the public interest and should be authorized.

Art Whipple 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 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 March 1, 1981 Arthur L. Whipple, doing business as Art Whipple Trucking, may transfer to Art Whipple Trucking, Inc. the operating authority issued pursuant to Section 1063.5 of the Public Utilities Code and as set forth in Application No. GC 8037.
2. Within thirty days after the transfer, Art Whipple Trucking, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. Art Whipple Trucking, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its 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 cancellation of the operating authority granted by this decision.

4. Art Whipple Trucking, Inc. shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

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

Dated FEB 18 1981, at San Francisco, California.

John S. Gurnea

President
Art Whipple

James M. [unclear]

Commissioners