

FEB 18 1981

ORIGINAL

Decision No. 92724

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Ray Gonzales, dba)
 Ray's Machinery Movers, to trans-)
 fer his Highway Common Carrier)
 Certificate and Raymond R.)
 Gonzales, Inc., a California)
 corporation, to acquire said)
 certificate. (Public Utilities)
 Code 851 and 1064.5.)

Application No. 60082
(Filed November 14, 1980)

O P I N I O N

Ray Gonzales, doing business as Ray's Machinery Movers, requests authority to transfer a certificate of public convenience and necessity to Raymond R. Gonzales, Inc., a newly formed California corporation, of which Ray Gonzales is the sole stockholder.

The certificate was issued on April 30, 1980 in GC 4665, File No. T-57,859, pursuant to Section 1063.5 of the Public Utilities Code. It authorizes the transportation of general commodities within the State of California in intrastate commerce.

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 operation 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 transform their legal form while continuing the same business. 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 of the business entity, such as incorporation, when the vested interests remain the same. The instant application falls within this category and 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.

3. The order herein complies with the guidelines set forth in the Commission's energy efficiency plan.

Conclusion of Law

The application should be granted.

Raymond R. Gonzales, Inc. 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 March 1, 1981 Ray Gonzales, doing business as Ray's Machinery Movers, may transfer to Raymond R. Gonzales, Inc. the operating authority issued pursuant to Section 1063.5 of the Public Utilities Code and as set forth in Application No. GC 4665.

2. Within thirty days after the transfer Raymond R. Gonzales, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.

3. Raymond R. Gonzales, 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 had 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. Raymond R. Gonzales, 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 E. Bryan
President

Richard C. Howell

Ronald W. Parviz

Commissioners