

ORIGINAL

Decision No. 92348 April 21, 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of C.A.V. TRANSPORTATION, INC., a)
California corporation, to)
acquire, and RALPH KAGAY, an)
individual, to transfer, a common)
carrier certificate, pursuant to)
Section 851, et seq. of the)
California Public Utilities Code.)

Application No. 60148
(Filed December 17, 1980)

O P I N I O N

Ralph Kagay (transferor), an individual, has applied to transfer a highway common carrier certificate to C.A.V. Transportation, Inc. (transferee), pursuant to Section 1063 of the Public Utilities Code. Transferee's Articles of Incorporation were filed with the Secretary of State on January 29, 1980 and a copy of the articles is attached to the application. Transferee holds two-thirds of the outstanding capital stock of transferor in his own name. No consideration will be paid for the transfer of authority. There is a continuity of control and the provisions of Section 1064.5 of the Public Utilities Code do not preclude the proposed transfer. It is the intention of applicants that all transportation business will be transferred to and conducted by the transferee.

Transferee is the successor in interest to transferor who held a radial highway common carrier permit in File No. T-119,579. On January 31, 1980, it was converted to a highway common carrier certificate pursuant to Section 1063.5 of the Public Utilities Code in Application No. GC 4028. The certificate authorizes the transportation of general commodities statewide.

Transferor participates in the rates set forth in Minimum Rate Tariff 2 (Transition Tariff). Transferee will adopt this tariff. Transferor is not a party to through or joint rates, nor will transferee be a party to such rates.

Transferee has requested that the requirements of service under Commission Rule No. 21(f) be waived, since the transfer concerns an existing certificate and there will be no adverse effect on other carriers.

A copy of the application with all attachments was mailed to California Trucking Association. The application was also listed in the Commission's Daily Calendar for December 22, 1980. No protests have been received.

Findings of Fact

1. The proposed transfer would not be adverse to the public interest.
2. A public hearing is not necessary.

3. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.

Conclusion of Law

The transfer should be authorized.

Transferee 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. Ralph Kagay, an individual, may sell and transfer the operative rights referred to in the application to C.A.V. Transportation, Inc. This authorization shall expire if not exercised by July 1, 1981, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Transferee shall amend or reissue the adoption notice 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 adoption notice filing 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 adoption notice filing shall be concurrent with the transfer. The adoption notice filing made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of adoption notices 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.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the adoption notice filing required by paragraph 3, the certificate of public convenience and necessity referred to in paragraph 1 hereof is

transferred to C.A.V. Transportation, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code.

5. Transferee is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

6. Transferee shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before April 30 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

7. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport

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collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

Dated APR 21 1981, at San Francisco, California.

John E. Simpson
President
Richard W. [unclear]
Donald [unclear]
Vittorio [unclear]
Priscilla C. [unclear]
Commissioners