

Decision No. 93091 MAY 19 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Robert Johnson dba Interstate Rapid Transit, to transfer highway common carrier certificate and Interstate Rapid Transit Co., a California corporation, to acquire said certificate (Public Utilities Code Section 851).

Application No. 60277
(Filed February 19, 1981)

O P I N I O N

This is an application by Robert Johnson (Johnson), doing business as Interstate Rapid Transit, seeking authority to transfer his certificate of public convenience and necessity to Interstate Rapid Transit Co., a newly formed California corporation, whose stock is solely owned by Johnson and his wife, as community property. The certificate, issued April 30, 1980 under Public Utilities (PU) Code § 1063.5 in Application GC 2027, File T-91542, authorizes the transportation of general commodities within the State.

Section 1063.5 authorizes holders of radial highway common carrier permits to convert their permits to highway common carrier certificates. In Decision 89575 dated October 31, 1978, as amended, the Commission held that during the 5-year period after their § 1063.5 certificates become effective, carriers should be allowed to expand or contract their operations conducted under such certificates by making appropriate tariff filings. This procedure preserves the carriers' opportunity, formerly available to radial permit holders, to develop and shape their operations based upon managerial objectives. PU Code § 1064.5 prohibits the transfer of § 1063.5 certificates during that 5-year period except to the extent of operations actually conducted as a prime carrier. By Resolution 18049 dated July 31, 1979 the Commission recognized that businesses often change their legal form

while continuing the same operations, and it held that some transfers of § 1063.5 certificates were not transfers within the meaning of § 1064.5. Therefore, when a transfer of a § 1063.5 certificate is required by a change in the form of the business entity, such as the incorporation of a proprietorship or partnership where the beneficial ownership interests remain substantially the same, the transfer will be authorized without compliance by the applicants with the service rules relating to transfers. This application involves such a transfer.

Findings of Fact

1. There is no change in the beneficial ownership of the § 1063.5 common carrier authority.
2. The proposed transfer would not be adverse to the public interest. A public hearing is not necessary.
3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1981, Robert Johnson may transfer to Interstate Rapid Transit Co., the operating authority issued under PU Code § 1063.5 in Application GC 2027.
2. Within 30 days after the transfer Interstate Rapid Transit Co. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. Interstate Rapid Transit Co. shall amend or reissue the subhaul affidavit on file with the Commission, governing the common carrier operations transferred to show that it has adopted or established, as its own, the said subhaul affidavit. The subhaul affidavit filing shall be made effective not earlier than 5 days after the effective date of this order on not less than 5 days' notice to the Commission

