

Decision 93159 JUN - 2 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
for an order approving transfer )  
of ownership of John T. Kovacks, )  
doing business as GEORGE )  
TRUCKING, a Highway Common )  
Carrier, from John T. Kovacks )  
to PIPELINE INDUSTRIES INC., )  
under the provisions of Section )  
851 of the Public Utilities )  
Code. )

Application 60289  
(Filed February 23, 1981)

O P I N I O N

John T. Kovacks, doing business as George Trucking, requests authority to transfer a certificate of public convenience and necessity to Pipeline Industries Inc., a newly formed California corporation of which John T. Kovacks is president and majority stockholder. The certificate, issued April 30, 1980, under Public Utilities (PU) Code Section 1063.5 in GC 2309, File T-131,318, 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 Section 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 highway common carrier permit holders, to develop and shape their operations based upon managerial

objectives. PU Code Section 1064.5 prohibits the transfer of Section 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 Section 1063.5 certificates were not transfers within the meaning of Section 1064.5. Therefore, when a transfer of a Section 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 substantive change in the beneficial ownership of the Section 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


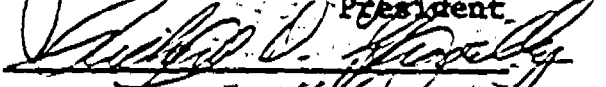


IT IS ORDERED that:

1. On or before September 30, 1981, John T. Kovacks, doing business ✓ as George Trucking, may transfer to Pipeline Industries Inc., the operating authority issued under PU Code Section 1063.5 in GC 2309.
2. Within 30 days after the transfer Pipeline Industries Inc. shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.

3. Pipeline Industries 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 5 days after the effective date of this order on not less than 5 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 Series 80. Failure to comply with the provisions of General Order Series 80 may result in cancellation of the operating authority granted by this decision.

This order becomes effective 30 days from today.

Dated JUN 2 1981, at San Francisco, California.

  
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President  
  
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Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.