

ORIGINAL

Decision 93750 NOV 13 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of L E T TRUCKING, INC., a)
California corporation, to acquire)
from REDDING STEEL & SUPPLY, a)
California corporation, a certif-)
icate of public convenience and)
necessity issued pursuant to)
Section 1063.5 of the Public)
Utilities Code, and for L E T)
TRUCKING, INC. to issue stock.)

Application 60595
(Filed May 26, 1981;
amended July 29, 1981)

O P I N I O N

This is an application by Eugene W. Sivachenko to transfer his highway common carrier certificate of public convenience and necessity to L E T Trucking, Inc., a newly formed California corporation, and for the corporation to issue stock to the transferor.

The certificate to be transferred (GC-4607) in File No. T-103,320 was issued under Public Utilities (PU) Code Section 1063.5 and authorizes the transportation of general commodities within the State.

Section 1063.5 authorized holders of radial highway common carrier permits to convert their permits to highway common carrier certificates of public convenience and necessity. By

Decision 89575 dated October 31, 1978, as amended, the Commission found that during the first five-year period after the Section 1063.5 certificates become operational, the carriers may expand or contract operations by making appropriate tariff filings. This procedure preserves the opportunity, formerly available to holders of radial permits, for carriers to develop and shape their operations based upon managerial objectives. PU Code Section 1064.5 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 18049, dated July 31, 1979, this Commission recognized that in the normal course of events many businesses experience transformations of their legal form while maintaining a continuation of the same business concern. 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 or makeup of the business entity, such as incorporation, when the vested interests remain the same. Because this application falls within this category, the transfer will be authorized without need for compliance with all of the usual service regulations relating

to transfers. Transferor also operates under a highway contract carrier permit and an agricultural carrier permit, the transfers of which are to be the subject of separate applications.

Transferor has operated as a sole proprietorship and chooses to incorporate the business in order to receive the benefit of certain advantages that a corporate organization allows.

Transferor is the sole stockholder of Redding Steel & Supply, a noncarrier California corporation. In exchange for the transfer of the operating rights, \$10,000 in cash, highway vehicles valued at \$20,000, and \$1,500 in organization expense, transferor would issue 1,000 shares of its no par common stock to Redding Steel & Supply so that it will become the holding company of transferee.

Applicant has requested a deviation from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application. Notice of the filing of the application appeared in the Commission's Daily Calendar of May 26, 1981. No protests to the application have been received.

Findings of Fact

1. The proposed transfer of certificate would not be adverse to the California public interest.

2. The proposed stock issue would be for a proper purpose.

3. The money, property, or labor to be procured or paid for by the stock issue authorized is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.

5. Transferee has sufficient equipment and financial ability to initiate and continue the proposed operation.

6. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

7. The transfers authorized meet the conditions established by the Commission for such transactions in Resolution 18049, dated July 31, 1979.

8. A public hearing is not necessary.

Conclusion of Law

The application should be granted.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. Eugene W. Sivachenko may transfer the operating authority specified in the application, as amended, to L E T Trucking, Inc., a California corporation. This authority shall expire if not exercised by February 1, 1982, or within such additional time as the Commission may authorize.

2. L E T Trucking, Inc. shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue Sivachenko's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, and 104, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.

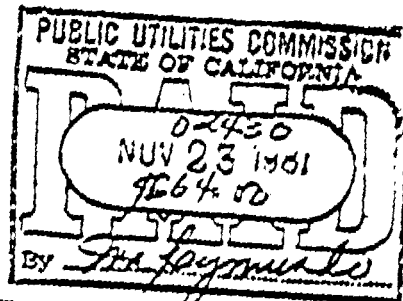
3. On or after the effective date of this order but before February 1, ¹⁹⁸² 1981, for the purchases specified, L E T Trucking, Inc. may issue up to 1,000 shares of no par value common stock at a total price of \$31,500 to Redding Steel & Supply in consideration of cash and other assets referred to in the application. Ku

4. L E T Trucking, Inc. shall file the reports required by General Order Series 24.

5. The authority granted by this order to issue stock will become effective when the issuer pays \$64, set by PU Code Section 1904.1. In all other respects this order becomes effective 30 days from today.

Dated NOV 13 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners



I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TO

Joseph E. Bodovitz
Joseph E. Bodovitz, Executive Director