

ORIGINAL

Decision 93758 NOV 13 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of LODI TRUCK SERVICE, INC., a )  
California corporation, to acquire )  
from ARTHUR R. ALTNOW, an individual )  
doing business as LODI TRUCK SERVICE, )  
highway common carrier certificates )  
of public convenience and necessity, )  
cement carrier certificate and other )  
assets in exchange for stock, and to )  
assume obligations and issue )  
promissory note. )

Application 60827  
(Filed August 19, 1981)

O P I N I O N

This is a joint application of Arthur R. Altnow (Altnow), an individual doing business as Lodi Truck Service, and Lodi Truck Service Incorporated (Lodi), a California corporation. Applicants seek the following authority: (1) to transfer from Altnow to Lodi, Altnow's highway common carrier and cement carrier certificates as well as certain enumerated assets; (2) Altnow to issue 100,000 shares of no par stock, that amount of stock to reflect a stockholder's equity of \$100,000; and (3) Lodi to issue a promissory note to Altnow in the amount of \$362,450 (a 10-year note at 10% interest).

Altnow holds the following certificates:

1. Highway common carrier certificate granted by Decision (D.)87251 and amended by D.87414 authorizing transportation of general commodities between points in an extensive area of the State.
2. A highway common carrier certificate issued under Public Utilities (PU) Code Section 1063.5, in GC-3241.

3. A cement carrier certificate granted by Resolution 13521.

Altnow also holds carrier permits as follows (File T-16751): highway contract, heavy specialized, tank truck, and agricultural. Applicants state that these permits will be transferred to Lodi by applications to be filed with this Commission. Altnow also holds operating authority from the Interstate Commerce Commission as a motor common carrier which will concurrently be transferred to Lodi in accordance with Interstate Commerce Commission rules.

Altnow's financial statement on July 1, 1981 shows total assets, less accumulated depreciation, amounting to \$739,266 to be transferred. The long-term obligations to be assumed by Lodi, besides the promissory note in the amount of \$362,450, are a note to IBM for \$32,105 and a note to IFG Leasing for \$3,551. Lodi will also be responsible for current liabilities amounting to \$229,453 as of July 1981.

The company's highway common carrier certificate, No. GC-3241, was issued under PU Code Section 1063.5. PU Code Section 1064.5 forbids the transfer of such certificate for a period of five years after issuance, except to the extent of operations actually conducted in good faith. The proposed transfer and sale are the incorporation of a sole proprietorship. Altnow will control 100% of the stock of Lodi. Altnow asserts that his operations should be conducted by a corporation for business, tax, and liability considerations among other reasons. The proposed sale and transfer meet the criteria of Resolution 18049 and, therefore, are not transactions subject to PU Code Section 1064.5.

Findings of Fact

1. Altnow currently operates under several certificates and permits as discussed above.

2. Altnow desires to incorporate and therefore has formed a corporation.

3. Altnow proposes to transfer his assets, liabilities, and operating certificates to the corporation.

4. Concurrent with the transfer Lodi will (a) assume Altnow's liabilities as shown in Exhibit 4 attached to the application; (b) issue to Altnow 100,000 shares of the corporation's capital stock; and (c) issue to Altnow a promissory note for \$362,450 as shown in Exhibit 5 attached to the application.

5. The proposed transfer would not be adverse to the public interest.

6. A public hearing is not necessary.

7. The following order has no reasonably foreseeable impact on the energy efficiency of highway carriers.

8. The proposed security issue is for lawful purposes and the money, property, or labor to be obtained by it is required for these purposes. Proceeds from the security issue may not be charged to operating expenses or income.

#### Conclusions of Law

1. The proposed transfer of the Section 1063.5 certificate is not a transfer subject to PU Code Section 1064.5.

2. 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.

#### O R D E R

IT IS ORDERED that:

1. On or before December 31, 1981 Arthur R. Altnow may sell and transfer the highway common carrier and cement carrier certificates of public convenience and necessity and related assets referred to in the application to Lodi Truck Service, Incorporated.

2. On or after the effective date of this order, but before December 31, 1981, for the purposes specified, Lodi Truck Service, Incorporated may issue up to 100,000 shares of common stock of no par value to Arthur R. Altnow. The stock issue shall reflect a stockholder's equity of \$100,000.

3. On or after the effective date of this order, but before December 31, 1981, for the purposes specified, Lodi Truck Service, Incorporated may issue an evidence of indebtedness in principal not exceeding \$362,450. This document shall be substantially the same as that attached to the application.

4. Lodi Truck Service, Incorporated shall file with the Commission the report required by General Order 24-B which order insofar as applicable is made a part of this order.

5. Lodi Truck Service, Incorporated shall:

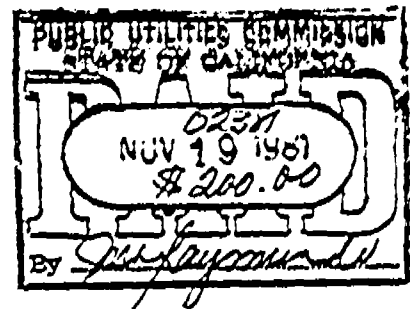
- a. File with the Transportation Division written acceptance of the certificates and a copy of the bill of sale or other transfer documents within 30 days after transfer.
- b. Amend or reissue the tariffs of Arthur R. Altnow. The tariffs shall not be effective before the date of transfer, or before five days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 104, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. The authority granted by this order to issue an evidence of indebtedness will become effective after the effective date of this order and when the issuer pays \$726, set by PU Code Section 1904(b).

f. The authority granted by this order to issue stock will become effective after the effective date of this order and when the issuer pays \$200.00, set by PU Code Section 1904.1.

This order becomes effective 30 days from today.

Dated NOV 13 1981, at San Francisco, California.

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



I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

*Joseph E. Bodovitz*  
Joseph E. Bodovitz, Executive Director.