

ORIGINAL

Decision 93855 DEC 15 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of CHARLES H. SEGUIN for authority)	Application 60521
to control BRADY MATTHEWS)	(Filed May 6, 1981)
TRUCKING, INC.)	
_____)	

O P I N I O N

By this application Charles H. Seguin (Seguin), an individual, seeks authority under Public Utilities (PU) Code §§ 854 and 3551 to control Brady Matthews Trucking, Inc. (Matthews), a California corporation, by the purchase of all of the corporation's issued and outstanding stock.

Matthews holds a highway common carrier certificate of public convenience and necessity which authorizes statewide transportation of general commodities, with the usual exclusions, and a highway contract carrier permit. Both operating authorities were issued under the provisions of Senate Bill 860 which provided for conversion of the radial highway common carrier permits held by highway carriers.

There are presently issued and outstanding 10,000 shares of the common capital stock of Matthews, all of which are held by Brady E. Matthews. It is proposed that the 10,000 shares will be sold to Seguin, who will then solely own and control Matthews.

Brady Matthews, the owner and operator of Matthews desires to retire from the trucking business and to pursue another career. Seguin is experienced in the business and desires to acquire the stock in Matthews in order to own and operate the business.

Under the terms of payment for the sale of stock, Seguin will pay Brady Matthews \$25,000 in cash. The balance of the sale price, \$26,200, will be paid by Seguin to Brady Matthews in monthly installments of \$833.16 including interest of 9% per annum provided for in the promissory note, attached to the application as Exhibit A, to be issued by Seguin.

A copy of the application was mailed to the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of May 8, 1981. No protests to the application have been received. Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application.

Discussion

The type of certificate held by Matthews was created under provisions of PU Code § 1063.5. PU Code § 1064.5 provides that no certificate issued under § 1063.5 may be sold or transferred for a period of five years after issuance except to the extent of operations actually conducted in good faith.

PU Code § 854 provides that no person or corporation shall acquire or control a public utility (including a common carrier) without securing authorization to do so from this Commission.

We have reviewed the provisions of the PU Code which may be applicable to the transaction for which approval is sought in this application. We conclude that the transfer of control of a corporation holding a PU Code § 1063.5 highway common carrier certificate is subject to the provisions of PU Code § 854, and that PU Code § 1064.5 is not applicable.

The proposed transfer of control of the corporation is not adverse to the public interest and should be authorized.

Findings of Fact

1. Brady Matthews transferred his radial highway common carrier permit on November 19, 1979 to Matthews under the provisions of Resolution 18026.

2. The radial permit transferred to Matthews was converted into a statewide certificate of public convenience and necessity under PU Code § 1063.5 on April 30, 1980 in Application GC 6731.

3. Brady Matthews seeks to transfer control of Matthews to Seguin under PU Code § 854.

4. The proposed transaction would not be adverse to the public interest.

5. The following order complies with the guidelines set forth in the Commission's Energy Efficiency Plan.

6. A public hearing is not necessary.

Conclusions of Law

1. PU Code § 854 is applicable to transfer of control of a corporation holding a highway common carrier certificate issued under PU Code § 1063.5.

2. The application should be granted as set forth in the ensuing order.

3. The request for relief from the Commission's Rules of Practice and Procedure should be granted.

The action taken shall not be construed as a finding of value of the capital stock of Matthews.

O R D E R

IT IS ORDERED that:

1. Charles H. Seguin may control Brady Matthews Trucking, Inc., a California corporation.

2. This authorization shall expire if not exercised by February 1, 1982, or within such additional time as may be authorized by the Commission.

This order becomes effective 30 days from today.

Dated DEC 15 1981, at San Francisco, California.

JOHN R. BRISON
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 TODAY.

Joseph E. Bedovitz
Joseph E. Bedovitz, Executive Director