

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution No. 18230  
Transportation Division

( RESOLUTION GRANTING BEST-WAY TRANSPORTATION, )  
( AN ARIZONA CORPORATION, AN EXTENSION OF TIME )  
( TO PAY TRANSPORTATION RATE FUND FEES )

Best-Way Transportation, (Best-Way) an Arizona corporation (File T-139,846), 1813 East Thomas Road, Phoenix, AZ 85016, holds a highway contract carrier permit and a highway common carrier certificate of public convenience and necessity issued by this Commission.

Several months ago Best-Way became aware that it had incorrectly completed its quarterly reports of gross operating revenue for the first quarter of 1983 through the second quarter of 1985, resulting in an underpayment of transportation rate fund (TRF) fees. In October 1985 when the underpayment became apparent, Best-Way immediately filed amended reports and paid the sum of \$39,801.50 which, according to Best-Way's records, represents the total TRF underpayment due for the period.

The payment made by the carrier did not include the 25% penalty normally assessed for delinquent TRF fees under the provisions of Public Utilities (PU) Code Section 5007. In a letter dated October 9, 1985 Best-Way's Director of Finance asked that such penalties totaling \$9911.49 be waived as the original reports were believed by Best-Way at the time to have been complete and correct and were timely filed.

Assertedly, the oversight was caused by a misunderstanding on the part of the carrier's administrative staff, rather than the failure, neglect or refusal to file the required reports.

Findings of Fact

1. Public Utilities Code Section 5007 provides that if any transportation agency which is required to file quarterly reports of gross operating revenue and to pay transportation rate fund fees fails to pay the prescribed fees for a period of 30 days or more the Commission may suspend or revoke the operating authority of such agency and estimate the fees due and shall add a 25 percent penalty to such estimate for failure, neglect, or refusal to report.

2. Best-Way indicates that the failure to timely pay the required fees was caused by a staff misunderstanding rather than a willful attempt to evade payment.

3. Upon becoming aware of the oversight, Best-Way immediately remitted full payment of the fees in arrears.

4. Section 5007 of the Public Utilities Code provides that the Commission may grant an extension of time to file the required report upon written application of the transportation agency.

5. Best-Way's letter of December 26, 1985 requesting that the penalty be waived may be construed as a request for extinction of the penalty by the grant of an extension of time to file the fees due.

#### Conclusion of Law

1. The Commission concludes that Best-Way's failure to timely pay the full amount of the fees due under Section 5001 et seq. of the Public Utilities Code resulted from an unintentional oversight caused by a misunderstanding.

2. Best-Way should be granted an extension of time to make the required payments up to the date full payment was actually made.

#### O R D E R

IT IS ORDERED that:

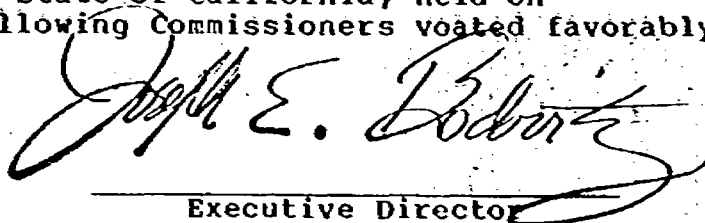
1. Best-Way Transportation is granted an extension of time to October 9, 1985 to pay in full the fees due the Commission under Section 5007 of the Public Utilities Code for the first quarter of 1983 through the second quarter of 1985, inclusive.

2. This order is effective today.

I hereby certify that the foregoing Resolution was duly introduced, passed, and adopted at a meeting of the Public Utilities Commission of the State of California, held on

APR 16 1988

. The following Commissioners voted favorably:



Executive Director

DONALD VIAL  
President  
VICTOR CALVO  
PRISCILLA C. GREY  
FREDERICK R. DUDA  
Commissioners