

**ORIGINAL**

Decision No. 47311

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ROBERTSON DRAYAGE CO., INC., a  
corporation, to sell, and HIGHWAY  
TRANSPORT, INC., a corporation,  
to purchase.

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) Application  
No. 33137  
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In the Matter of the Application of  
HIGHWAY TRANSPORT, INC., a corpora-  
tion, and CANTON TRANSBAY EXPRESS,  
INC., a corporation, for an order  
authorizing applicants to merge,  
and for the surviving corporation  
thereupon to issue certain shares  
of stock.

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) Application  
No. 33138  
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In the Matter of the Application of  
ROBERTSON DRAYAGE CO., INC.,  
a corporation, and A-B-C TRANSFER  
& STORAGE CO., INC., a corporation,  
for an order authorizing applicants  
to merge.

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) Application  
No. 33351  
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Scott L. Herrington and Bertram S. Silver,  
for applicants.

O P I N I O N

These three applications, filed by Robertson Drayage Co., Inc., Highway Transport, Inc., Canton Transbay Express, Inc., and A-B-C Transfer & Storage Co., Inc., involve the transfer, by sale or by merger, of operative rights and properties.

Robertson Drayage Co., Inc., hereinafter referred to as Robertson, is engaged in the freight forwarding business generally between San Francisco and Stockton and in the local drayage business in San Francisco.

Highway Transport, Inc., hereinafter referred to as Highway, is engaged in business as a highway common carrier generally between San Francisco, Richmond, Oakland, Hayward and San Leandro and points on the Monterey Peninsula. It holds rights granted by the Interstate Commerce Commission permitting operations as a common carrier in interstate commerce generally between San Francisco, Monterey and Santa Cruz.

Canton Transbay Express, Inc., hereinafter referred to as Canton, is engaged as a highway common carrier between San Francisco and certain East Bay points. It holds rights granted by the Interstate Commerce Commission covering operations in interstate commerce between the same points.

A-B-C Transfer & Storage Co., Inc., hereinafter referred to as A-B-C, is engaged as a public warehouseman in San Francisco and as a permitted carrier, primarily as a city carrier. It holds rights granted by the Interstate Commerce Commission permitting operations as a common carrier in interstate commerce generally between San Francisco and Tulare and Monterey and as a contract carrier of goods of the United States Government between points and places within fifty miles of San Francisco.

The four corporations are controlled through stock ownership by the same interests.<sup>(1)</sup> In order to simplify the operations, those in control of the affairs of the applicants propose to

(1)

The outstanding shares of stock (\$100 par value each) are reported held as follows:

	<u>Robertson</u>	<u>Highway</u>	<u>Canton</u>	<u>A-B-C</u>
Joseph Robertson	500	185	-	119
Robertson Drayage	-	334	343	-
H. L. Robertson	52	-	-	77
F. S. Reed	48	1	-	4
H. A. Somerfield	-	50	-	-
E. T. Linn	-	30	-	-
Total	<u>600</u>	<u>600</u>	<u>343</u>	<u>200</u>

undertake a series of transactions which will result in placing the operations in the hands of two of the corporations. At the conclusion of the transactions, Robertson will be engaged locally in the drayage and the public warehousing business, including the local contract carrier operations of A-B-C, and Highway will be engaged in the highway common carrier and freight forwarding service under rights granted by this Commission as well as the common carrier service under the interstate rights. (2)

To accomplish these objectives, Robertson seeks authorization in Application No. 33137 to sell its freight forwarding rights to Highway for the sum of \$6,052.88, that being the amount at which such rights are carried on its books, no equipment being included in the transaction. (3). Thereafter, Robertson and A-B-C, in Application No. 33351, propose to execute an agreement of merger whereby the separate existence of A-B-C will cease and Robertson, as the surviving corporation, will succeed to all its assets, except the interstate common carrier rights which have been transferred to Highway, and all its debts and liabilities. The outstanding stock of A-B-C (\$20,000 par value) will be canceled.

Highway and Canton, as a step in the proceedings, in Application No. 33138 seek permission to execute an agreement of merger whereby the separate existence of Canton will cease and Highway, as the surviving corporation, will succeed to all its assets and all its debts and liabilities. All the stock of Canton will be surrendered for cancellation and Highway will issue to the share-

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(2)

Applications have been filed with the Interstate Commerce Commission for authorization to transfer the interstate rights.

(3)

For the first nine months of 1951, the freight forwarding revenues are reported at \$15,218.25 and the out-of-pocket expenses, excluding taxes on income, at \$10,521.58.

holder its capital stock in an amount equal to the net assets of Canton as of the date of consummation of the merger. The net book value of the assets is reported in Canton's annual report at \$49,225.93 as of December 31, 1951, after giving effect to the elimination of \$7,500 of intangible capital. (4)

The record indicates that there will be no change in the service to the public as a result of these several transactions. According to the record, the carriers will eliminate certain duplications in office and terminal expenses and will effect economies in operating costs.

In our opinion the proposed transfers will not be adverse to the public interest and we will enter an order granting applicants' requests. The amount of stock to be issued by Highway cannot be stated definitely at this time and the order will authorize it to issue not exceeding \$50,000 par value of its stock in carrying out the merger with Canton. If the amount required at the time the transaction is closed exceeds this amount, Highway can file an appropriate supplemental application requesting the issue of additional shares.

Applicants are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the state as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which

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(4)

The elimination of this item was directed by the Commission by Decision No. 37359.

is not in any respect limited as to the number of rights which may be given.

O R D E R

Public hearings having been held on the above entitled matters, and the Commission having considered the evidence and being of the opinion that the applications should be granted, as herein provided; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Robertson Drayage Co., Inc., after the effective date hereof and on or before June 30, 1953, may transfer to Highway Transport, Inc. its freight forwarding rights, under the terms and conditions set forth in Application No. 33137.
2. Highway Transport, Inc. and Canton Transbay Express, Inc., after the effective date hereof and on or before June 30, 1953, may execute an agreement of merger in substantially the same form as that filed as Exhibit A in Application No. 33138, and carry out the terms of said agreement.
3. Robertson Drayage Co., Inc. and A-B-C Transfer & Storage Co., Inc., after the effective date hereof and on or before June 30, 1953, may execute an agreement of merger in substantially

the same form as that filed as Exhibit B in Application No. 33351, and carry out the terms of said agreement.

4. Highway Transport, Inc., after the effective date hereof and on or before June 30, 1953, may issue not exceeding \$50,000 par value of its capital stock in carrying out the terms of the merger agreement with Canton Transbay Express, Inc.

5. The action taken herein shall not be construed to be a finding of the value of the rights and properties referred to herein.

6. On not less than five (5) days' notice to the Commission and to the public, applicants shall comply with the provisions of General Order No. 80, Part 14 of General Order No. 99, and Tariff Circular No. 2, by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables.

7. On not less than five (5) days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs now on file with the Commission, insofar as they name rates, rules and regulations governing warehouse operations of A-B-C Transfer & Storage Co., Inc. to show that A-B-C Transfer & Storage Co., Inc. has withdrawn or canceled and that Robertson Drayage Co., Inc. concurrently has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order in all respects shall comply with the regulations governing the construction and filing of warehouse tariffs set forth in the Commission's General Order No. 61.

8. Highway Transport, Inc. shall file with the Commission monthly reports as required by General Order No. 24-A, which order,

insofar as applicable, is made a part of this order.

9. The authority herein granted will become effective  
twenty (20) days after the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of  
January 1952.

A. Z. [Signature]  
President  
James J. [Signature]  
Harold [Signature]  
[Signature]  
[Signature]  
Commissioners