

ORIGINAL

Decision No. 53097

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

ROBERTSON DRAYAGE CO., INC. to acquire the capital stock of INTER-URBAN EXPRESS CORPORATION; and of HIGHWAY TRANSPORT, INC. to issue stock and to acquire stock of INTER-URBAN EXPRESS CORPORATION and to assume certain obligations; and of INTER-URBAN EXPRESS CORPORATION to transfer certificates of public convenience and necessity to HIGHWAY TRANSPORT, INC.; and for INTER-URBAN EXPRESS CORPORATION and SANTA FE WAREHOUSE COMPANY to merge into ROBERTSON DRAYAGE CO., INC.

Application
No. 37804
(as Amended)

Edward M. Berol, for applicants.

O P I N I O N

This is an application filed on March 5, 1956, by Robertson Drayage Co., Inc., Inter-Urban Express Corporation, Highway Transport, Inc., and Santa Fe Warehouse Company for an order of the Commission authorizing the transfer of operative rights and properties, the execution of a merger agreement, the acquisition and issue of shares of stock and the assumption of indebtedness, all as hereinafter set forth. In this decision the four applicants will be referred to as Robertson, Inter-Urban, Highway and Santa Fe, respectively.

An amended application was filed on March 28, 1956. A public hearing was held before Examiner Coleman in San Francisco on April 23, 1956, at which time the matter was taken under submission. The Commission has received no protests in the proceeding.

Nature of Operations

All applicants are California corporations engaged in

certain public utility operations and related activities.^{1/}

Robertson operates as a public utility warehouseman in San Francisco and as a city carrier and a highway permit carrier.

Inter-Urban operates as a highway common carrier generally between San Francisco and points in Alameda and Contra Costa Counties and between Alameda County points and Daly City, Colma and South San Francisco.

Highway operates as a highway common carrier between San Francisco and Carmel and other points, between San Francisco and East Bay points and between San Francisco and Tulare.

Santa Fe operates as a public utility warehouseman in Oakland.

Stock Ownership

According to Exhibit 17, the outstanding shares of stock, all common, were held on December 31, 1955, as follows:

	<u>Highway</u>	<u>Robertson</u>	<u>Inter-Urban</u>	<u>Santa Fe</u>
Joseph Robertson	185	440		
Frank Reed	1	48		
H. L. Robertson		112		
Robertson Drayage Co., Inc.	834			
E. T. Linn	30			
H. A. Summerfield	50			
Laurene A. Waldie			447	
Lloyd Rasmussen			225	
Lois Rasmussen			177	
Inter-Urban Express Corp.				5
Total	1,100	600	849	5

^{1/} For 1955, applicants reported gross revenues and net income as follows:

	<u>Revenues</u>	<u>Net Income</u>
Robertson	\$ 948,984	\$ 20,511
Inter-Urban	622,127	(54,104)
Highway	1,219,512	1,271
Santa Fe	36	(24)

All shares have a par value of \$100 each.

Proposed Transfers of Ownership

The application shows that the shareholders of Inter-Urban desire to dispose of their holdings and to withdraw from the operations. Accordingly, they have made arrangements for the sale of all the outstanding Inter-Urban shares to the Robertson interests for the sum of \$160,000.

Upon the transfer of such shares, it is proposed, in the interest of corporate simplification, for the highway common carrier operations and all the assets of Inter-Urban (except the shares of Santa Fe stock) to be acquired by Highway and for the warehouse business of Santa Fe to be acquired by Robertson. The corporate existence of Inter-Urban and Santa Fe will cease.

To accomplish these objectives, Robertson and Highway propose to undertake a series of transactions as follows:

1. Robertson will acquire the 849 shares of Inter-Urban stock for a total price of \$160,000.
2. Robertson will sell 837 of said Inter-Urban shares to Highway at the same price at which it purchased them. Highway will issue to Robertson 1,570 of its own shares in exchange.
3. Highway, as the owner of 837 shares of Inter-Urban stock, will cause that company's rights and assets (except the Santa Fe shares) to be transferred to it and in consideration will assume Inter-Urban's liabilities and will surrender the 837 shares.
4. Robertson, as the holder of the remaining 12 shares of Inter-Urban stock, will cause Inter-Urban, and also Santa Fe, to

effect a merger with Robertson as the surviving corporation.

Inter-Urban: Properties and Earnings

In Exhibit No. 1 applicants have presented a statement of Inter-Urban's assets, liabilities and capital as of December 31, 1955, as reflected by its books. A summary of the same is as follows:

Assets

Current assets -		
Cash	\$11,660	
Accounts receivable	11,045	
Prepayments	21,603	
Materials and supplies	1,472	
Total current assets		\$ 45,780
Tangible property, less depreciation		112,268
Intangible capital		7,292
Other investments		4,825
Deferred debits		2,465
		<u>\$172,630</u>
Total		

Liabilities and Capital

Current liabilities		\$ 75,033
Long-term obligations		62,638
Reserves		11,185
Capital -		
Common stock	\$84,900	
Less - deficit	61,126	
Total capital		23,774
		<u>\$172,630</u>
Total		

The properties of Inter-Urban include operative rights,^{2/}

^{2/} The Commission's records indicate that Inter-Urban's operative rights were acquired under authorizations as follows:

Decision No. 16339, dated Mar. 30, 1926, in Application No. 12677
 Decision No. 18293, dated Apr. 29, 1927, in Application No. 13551
 Decision No. 21981, dated Jan. 3, 1930, in Application No. 16175
 Decision No. 29196, dated Oct. 19, 1936, in Application No. 19838
 Decision No. 29446, dated Jan. 11, 1937, in Application No. 20626
 Decision No. 48008, dated Dec. 2, 1952, in Application No. 32506
 Decision No. 49369, dated Nov. 24, 1953, in Application No. 32927

In addition, Inter-Urban is named as a party to through routes and joint rates with certain other carriers.

real estate and improvements located at 4th and Clay Streets, Oakland, and 112 units of equipment.

The operation of the business, in recent years at least, has not been profitable. In 1954, the carrier reported revenues of \$600,819 and a net loss of \$8,732, and in 1955, revenues of \$622,127 and a net loss of \$54,104. The testimony shows that the adverse operating results are attributed to rising costs, with no corresponding increase in volume of business, and to the use of outmoded and inadequate equipment.

As to Santa Fe, the wholly-owned subsidiary of Inter-Urban, it appears that it owns no properties and that it has been conducting only a nominal amount of business in the 4th and Clay Streets building of Inter-Urban. The testimony shows that its lack of business is due to the lack of available space for storage.

Purchase Price

As stated, Robertson has agreed to pay \$160,000 for the outstanding Inter-Urban stock. The application shows that \$100,312.50 of the purchase price is to be represented by notes, one in the amount of \$75,000 to be payable to Laurene A. Waldie over a period of 7 years and the other in the amount of \$25,312.50 to be payable to Lloyd Rasmussen over a period of 5 years, both notes to bear interest at the rate of $4\frac{1}{2}\%$ on the declining balances. Highway, upon acquisition of the stock of Inter-Urban, will guarantee the payment of the notes.

It will be noted that the Robertson-Highway interests are willing to pay \$160,000 for stock having a book value of \$23,774 in an enterprise which reportedly has been losing money. The testimony

on this point shows that the agreed price is based primarily on the appraised market value of the 4th and Clay Streets property and that it is Highway's intention to remove the operations from that point to its own facilities and to dispose of the properties.^{3/} It is asserted, further, that both Highway and Robertson desire to extend their operations in the East Bay, the former through the acquisition of the lines to Contra Costa County and the latter through the utilization and development of the warehouse rights of Santa Fe. Robertson intends to acquire a building and to engage actively in the warehouse business in Oakland.

Although Inter-Urban has been operating at a loss, Highway is confident that it can convert the business into a paying venture upon consolidation with its existing services. Among other things, Highway proposes to discontinue Inter-Urban's depot facilities and to handle the shipments through its own terminals in San Francisco and Oakland. It proposes to eliminate the present duplication of pick-up and delivery operations and to discontinue the shop facilities of Inter-Urban in Oakland by transferring the shop activities to its present San Francisco premises. It anticipates savings in general office expense.

Conclusions

Upon a review of the record we are of the opinion, and so find, that the proposed transfers will not be adverse to the public interest.

^{3/} The book value of the real estate and improvements, at the close of 1955, was reported at \$52,978. The record shows that an outside appraiser has placed the value \$118,250 in excess of this amount.

In the first place, the acquisition of the Inter-Urban operations by Highway should provide shippers with transportation service superior to the present service. Highway will dispose of the present Inter-Urban equipment which is said to be outmoded, will devote its financial resources and management to the Inter-Urban operations and will provide for centralization of terminal and depot functions and unification of the pick-up and delivery services. The entrance of Robertson into the warehouse business in the East Bay will provide an expanded service correlated with Robertson's present carrier activities.

In the second place, the record indicates that Highway is in a position to assume the financial and service obligations arising from the acquisition of Inter-Urban's business and properties. True, it has agreed to pay a sum substantially larger than recorded book values but it is clear that it can do so without impairing its existing service to the public. Under the circumstances surrounding the particular transactions we will interpose no objection.

Our action in this matter is not to be construed as a finding of value of the properties herein authorized to be transferred nor a finding of the reasonableness of the purchase price. It is not our practice to accept agreed purchase prices as representing costs or values upon which rates are to be based.

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

O R D E R

A public hearing having been held on the above-entitled application and the Commission being of the opinion that the application should be granted, that the money, property, or labor to be procured or paid for by the issue of the stock and notes herein authorized is reasonably required for the purposes specified herein, and that such purposes are 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., may acquire the outstanding 849 shares of stock of Inter-Urban Express Corporation and may issue, in part payment, a note to Laurene A. Waldie in the principal amount of not exceeding \$75,000 and a note to Lloyd Rasmussen in the principal amount of not exceeding \$25,312.50, payable as indicated in the preceding opinion.
2. Highway Transport, Inc., may acquire from Robertson Drayage Co., Inc., 837 shares of stock of Inter-Urban Express Corporation.
3. Highway Transport, Inc., may issue not exceeding 1,570 shares of its capital stock in exchange for said 837 shares of stock of Inter-Urban Express Corporation and may guarantee the obligation

of Robertson Drayage Co., Inc., to Laurene A. Waldie not to exceed \$75,000 and to Lloyd Rasmussen not to exceed \$25,312.50.

4. Robertson Drayage Co., Inc., may acquire the 1,570 shares of stock of Highway Transport, Inc.

5. Inter-Urban Express Corporation may transfer its operative rights, equipment and assets, except the stock of Santa Fe Warehouse Company, to Highway Transport, Inc., and Highway Transport, Inc., in acquiring said rights, equipment, and assets, may assume the outstanding obligations of Inter-Urban Express Corporation.

6. Robertson Drayage Co., Inc., Inter-Urban Express Corporation and Santa Fe Warehouse Company may execute an agreement of merger, in substantially the same form as that filed as Exhibit No. 12, and may carry out the terms of said agreement.

7. Highway Transport, Inc., may be substituted for Inter-Urban Express Corporation as a party to through routes and joint rates with other carriers heretofore approved by the Commission.

8. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of the merger, applicants, as appropriate, shall supplement or reissue the tariffs now on file with the Commission, insofar as they name rates, rules and regulations governing warehouse operations of Santa Fe Warehouse Company, to show that Santa Fe Warehouse Company 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.

9. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of the transfer, applicants, as appropriate, shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Inter-Urban Express Corporation has withdrawn or cancelled and that Highway Transport, Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

10. Robertson Drayage Co., Inc., and Highway Transport, Inc., shall file reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

11. The authority herein granted will become effective when Robertson Drayage Co., Inc., has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$101.00.

Dated at San Francisco, California, this 22nd day of May, 1956.

Carl E. Mitchell
President

Justus J. Calmes

Rayle L. Latham

Wm. J. Dooly

R. Hardy
Commissioners

