

ORIGINAL

Decision No. 62434

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA MOTOR TRANSPORT CO., LTD., and WESTERN TRANSIT SYSTEMS, INC. to merge into CALIFORNIA MOTOR TRANSPORT CO. OF THE WEST; and of CALIFORNIA MOTOR TRANSPORT CO. OF THE WEST to issue stock and assume liabilities.

Application No. 43621

O P I N I O N

This application was filed on July 21, 1961, for an order of the Commission authorizing California Motor Transport Co., Ltd., and Western Transit Systems, Inc., to execute an agreement of merger.

California Motor Transport Co., Ltd., is a California corporation which is engaged in business as a city carrier, as a highway permit carrier, and as a highway common carrier between specified points in California. It has outstanding 2,200 shares of common stock, without par value, which are carried on the balance sheet at \$117,030.

Western Transit Systems, Inc., is a Nevada corporation which operates as a city carrier and as a highway permit carrier. It has outstanding 18,636 shares of common stock, of the par value of \$10 each, which are carried on the balance sheet at \$186,360.

The outstanding shares of stock of California Motor Transport Co., Ltd., are owned by Western Transit Systems, Inc., and the outstanding shares of that corporation are owned by City Transit Systems. In order to bring about corporate simplification, those in control of the affairs of the two carriers have concluded to merge them into a new California corporation to be known as California Motor Transport Co. of the West. Under the terms of the proposed merger agreement, the separate existence of California Motor Transport Co., Ltd., and Western Transit Systems, Inc., shall cease and California Motor Transport Co. of the West, as the surviving corporation, shall succeed to all the rights, privileges, powers, franchises and assets of the two constituent corporations and to all their restrictions, liabilities and duties. The new corporation will issue 303,390 shares of its \$1 par value common stock in exchange for the outstanding shares of stock of the two merging corporations.

Financial statements filed with the application show that during 1960, California Motor Transport Co., Ltd., had operating revenues of \$4,724,639 and net income of \$168,616 and Western Transit Systems, Inc., had operating revenues of \$121,785 and net income of \$9,318. A pro forma balance sheet, dated as of March 31, 1961, filed as Exhibit CC, giving effect to the proposed merger, sets forth a capital structure for the surviving corporation which includes common stock and surplus

of \$1,492,305, equipment obligations of \$1,244,890 and advances from City Transit Systems of \$922,287. The pro forma balance sheet further shows current assets of \$1,793,620 and current liabilities of \$685,138.

A resume of the operating authorities of California Motor Transport Co., Ltd., is filed with the application as Exhibit B. Presently the Commission has pending before it Application No. 43374, in which California Motor Transport Co., Ltd., seeks an in lieu certificate, which application is not yet ready for decision. However, Application No. 43621, here under review, is not one which involves any changes in the terms of the existing operative rights. It is a merger proceeding whereby the surviving corporation will succeed to whatever rights California Motor Transport Co., Ltd., may have without any modification of such rights.

As to the effect of the merger on the public, it appears that there will be no change in the rates, routes, facilities, management or personnel as the result of the merger. The financial statements of record indicate that the volume of business of the surviving corporation will be substantial and should be profitable and that the surviving corporation will enter upon its operations with a reasonable capital structure and a favorable cash position. Upon a review of the application, we find and conclude that the

proposed merger will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue by California Motor Transport Co. of the West of shares of common 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. We will enter our order granting the application.

California Motor Transport Co. of the West is 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.

The action taken herein shall not be construed to be a finding of the value of the operative rights and properties of applicants herein authorized to be merged.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary, therefore,

IT IS ORDERED that -

1. California Motor Transport Co., Ltd., Western Transit Systems, Inc., and California Motor Transport Co. of the West may execute, enter into, and carry out the terms of an agreement of merger whereby California Motor Transport Co., Ltd., and Western Transit Systems, Inc., are merged into California Motor Transport Co. of the West.

2. California Motor Transport Co. of the West, as the surviving corporation, shall assume the outstanding obligations of California Motor Transport Co., Ltd., and Western Transit Systems, Inc., in accordance with the terms of said agreement of merger.

3. California Motor Transport Co. of the West, as the surviving corporation, may issue not to exceed 303,390 shares of its \$1 par value common stock in exchange for the shares of stock of California Motor Transport Co., Ltd., and Western Transit Systems, Inc., as provided by said agreement of merger.

4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such merger, applicants 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 California Motor Transport Co., Ltd., has withdrawn or canceled and California Motor Transport Co. of the West 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.

5. California Motor Transport Co. of the West shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted shall become effective 20 days after the date hereof.

Dated at San Francisco, California,
this 22nd day of August, 1961.

[Signature]
President
[Signature]
[Signature]
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Commissioners