

ORIGINAL

Decision No. 71775

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of WATSON-WILSON
TRANSPORTATION SYSTEM, INC.,
and YELLOW TRANSIT FREIGHT
LINES, INC. for authority for
the former to transfer operative
rights to the latter pursuant to
merger.

Application No. 48993
Filed December 2, 1966

O P I N I O N

This is an application for an order of this Commission authorizing Watson-Wilson Transportation System, Inc. to transfer all of its California intrastate operative rights to Yellow Transit Freight Lines, Inc. in connection with a proposed merger which is subject to the jurisdiction of the Interstate Commerce Commission.

Watson-Wilson Transportation System, Inc. is a Nebraska corporation operating as a common carrier under authority granted by the Interstate Commerce Commission. In addition, the company conducts highway common carrier activities in California pursuant to certificates of public convenience and necessity granted by this Commission. The carrier also engages in trucking operations under permits issued by this Commission.

Yellow Transit Freight Lines, Inc. is an Indiana corporation operating as a common carrier subject to the jurisdiction of the Interstate Commerce Commission. The company possesses no operating authority from this Commission, and the application shows that it conducts no operations in the State of California.

On May 5, 1966, in its Docket No. MC-F-9030, the Interstate Commerce Commission, through its Finance Board No. 1, authorized Yellow Transit Freight Lines, Inc. to acquire control, through purchase of stock, of Watson-Wilson Transportation System, Inc.

Applicants report that on October 10, 1966, they filed with the Interstate Commerce Commission their joint application requesting authority to merge under Section 5 of the Interstate Commerce Act. In this proceeding, the companies seek authority from this Commission pertaining to the transfer of California intrastate operative rights in carrying out the proposed merger. Such operative rights are referred to in Decision No. 64364, dated October 9, 1962, in Application No. 44698, which decision designated Watson-Wilson Transportation System, Inc. as the holder of the rights.

Section 5 of the Interstate Commerce Act relates to combinations and consolidations of carriers, and provides, in part, that the authority conferred by such section shall be exclusive and plenary, and that any carrier or corporation participating in, or resulting from, any transaction approved by the Interstate Commerce Commission thereunder shall have full power to carry such transaction into effect, and to own and operate any properties and exercise any control or franchises acquired through such transaction, without invoking any approval under State authority.

In County of Marin v. United States, 356 U.S. 412 (1958) the United States Supreme Court affirmed the exclusive and plenary nature of Interstate Commerce Commission jurisdiction in transactions subject to Section 5 of the Interstate Commerce Act. In commenting with respect to such section the court said, in part, "the sustaining of federal jurisdiction leads, by statute, to the complete ouster of state authority." 356 U.S. at 420.

In view of the above-cited County of Marin case and the language of Section 5 of the Interstate Commerce Act, particularly Section 5(11) which states that the jurisdiction of the Interstate Commerce Commission shall be exclusive and plenary, we find that this Commission is without jurisdiction over the transfer of intrastate operating rights to be transferred pursuant to a merger subject to such Section 5.


On the basis of the foregoing finding we conclude that the application should be dismissed for lack of jurisdiction. A public hearing is not necessary.

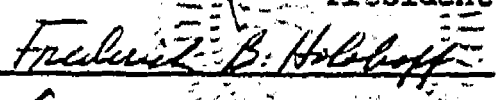
O R D E R


IT IS ORDERED that Application No. 48993 is hereby dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 29th day of DECEMBER, 1966.



President




Commissioners

Commissioner George G. Grover did not participate in the disposition of this proceeding.

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.