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Decision No. 73922

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BAY FREIGHT LINES, INC., a California)
corporation, for authority to transfer)
assets, and SYSTEM 99, a California)
corporation, to acquire assets and)
assume liabilities.)

Application No. 50036
(Filed February 21, 1968)

O P I N I O N

Bay Freight Lines, Inc., requests authority to sell and transfer and System 99 requests authority to purchase and acquire certificates of public convenience and necessity authorizing operations as a highway common carrier between various points within the State of California, together with other assets as set forth in an Agreement of Sale attached to the application. Applicants have also filed an application with the Interstate Commerce Commission pursuant to Section 5 of the Interstate Commerce Act requesting the instant transfers.

Section 5 of the Interstate Commerce Act relates to combinations and consolidations of carriers and provides in part that the authority 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 force to carry such transaction into effect and to own and operate any properties and exercise any control on franchises acquired through such transaction without invoking any approval under State authority. The exclusive and plenary nature of jurisdiction by the Interstate Commerce Commission was affirmed by the United States Supreme Court in County of Marin v. United States, 356 U.S. 412 (1958).

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After consideration, the Commission finds that the Interstate Commerce Commission has exclusive and plenary jurisdiction over the instant application and concludes that the application should be dismissed.

System 99 is placed on notice that, in the event the transfers are approved by the Interstate Commerce Commission, it should file a true copy of the orders of the Interstate Commerce Commission authorizing the transfers and should amend or reissue the tariffs on file with this Commission naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, said rates and rules. The tariff filings should comply in all respects with regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

O R D E R

IT IS ORDERED that Application No. 50036 is hereby dismissed.

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

Dated at San Francisco, California, this 2nd day of APRIL, 1968.

John E. Mitchell
President

William J. Gorman

William J. Gorman

William J. Gorman

And P. Monsey
Commissioners