

ORIGINALDecision No. 75875

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC EXPRESS
TRANSPORTATION and WATSON-WILSON
TRANSPORTATION SYSTEM, INC. for
authority for the former to trans-
fer operative rights to the latter,
for an amended certificate and for
new certificate.

Application No. 49889
(Filed December 19, 1967)

O P I N I O N

By this application Pacific Express Transportation (Pacific) seeks authority pursuant to Sections 851 and 1063 of the Public Utilities Code to sell and transfer to Watson-Wilson Transportation System (Watson-Wilson) a portion of its intrastate operating rights. Pacific and Watson-Wilson also seek a restatement of the operative rights presently held to reflect the transfer of the rights involved herein.

Pacific operates as a highway common carrier pursuant to a certificate of public convenience and necessity which was issued to George F. Lloyd Transportation Co. Said certificate was acquired by Pacific pursuant to authority granted by Decision No. 65706 in Application No. 45469. The certificate authorizes the transportation of general commodities with certain exceptions generally between Sacramento and San Francisco territory and between Los Angeles Basin territory and Sacramento and intermediate points. By reason of registration of this certificate with the Interstate Commerce Commission in its Docket No. MC-99833 (Sub. No. 2) pursuant to Section 206(a)(7) of the Interstate Commerce Act, Pacific is authorized to conduct operations in interstate and foreign commerce

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between the points and with respect to the commodities described above.

Watson-Wilson was organized in 1932 as the corporate successor to a Nebraska trucking business. Through route extensions and acquisitions, operations were extended through the western states between Chicago and the West Coast, and to the area between Chicago and St. Louis, on the one hand, and, on the other hand, points in Tennessee, Georgia and South Carolina. Watson-Wilson presently operates as a common carrier by motor vehicle under certificates of public convenience and necessity issued by the Interstate Commerce Commission authorizing transportation of general and specific commodities over approximately 21,000 miles of routes in 13 states. In addition, Watson-Wilson is the holder of highway common carrier certificates and permits issued by this Commission which are set forth in Decision No. 64364, dated October 9, 1962, in Application No. 44698.

Application was also filed with the Interstate Commerce Commission pursuant to Section 5 of the Interstate Commerce Act. On May 1, 1968, the Interstate Commerce Commission issued its decision and order which adopted the recommended report and order of the Hearing Examiner. Said recommended report and order approved the acquisition by Watson-Wilson Transportation System, Inc. of the interstate rights previously mentioned. The Interstate Commerce Commission's Decision and Order and the Report And Order Recommended by Samuel C. Shoup, Hearing Examiner are hereby made a part of the record as Exhibits 1 and 2, respectively.

By letters dated December 11, 12 and 23, 1968, hereby made a part of the record as Exhibits 3, 4 and 5, respectively, the

filing of certified copy of Interstate Commerce Commission Order authorizing merger, Docket MC-F-9554, accompanied with certified copy of Articles of Merger approved by the Secretary of the State of Indiana and same being confirmed as qualified by the Secretary of the State of California, counsel for applicants advised that Watson-Wilson merged with Yellow Freight System, Inc. (Yellow) and requested that Yellow be substituted for applicant Watson-Wilson. Accordingly, the other operating rights held by Watson-Wilson referred to above will also be changed to reflect the change of name of the corporate entity.

This application was listed on the Commission's Daily Calendar of December 20, 1967. No objections have been received by the Commission.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revision of the certificate presently held by Pacific Express Transportation to exclude the transportation of Class A and Class B explosives and the issuance of a certificate in Appendix form to Yellow Freight System, Inc.

Yellow Freight System, Inc. is hereby 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, these rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled 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

IT IS ORDERED that:

1. On or before September 30, 1969, Pacific Express Transportation may sell and transfer, and Yellow Freight System, Inc. may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that Pacific Express Transportation has withdrawn or canceled and Yellow Freight System, Inc. has adopted or established as its own said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order or not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and

necessity is granted to Yellow Freight System, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof.

5. Appendix A of Decision No. 61185, Application No. 42351, is amended by incorporating therein First Revised Page 2 and Original Page 3, attached hereto, in revision of Original Page 2.

6. In providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. Applicants are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.
- (b) Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time shall prescribe.
- (c) Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

7. The certificates of public convenience and necessity granted or amended by or transferred pursuant to Decisions Nos. 43003, 51286, 52152, 53636, 54658, 61533, 63271, 63273 and 64364 held by Watson-Wilson Transportation System, Inc. are amended by substituting "Yellow Freight System, Inc." in place and stead of "Watson-Wilson Transportation System, Inc."

8. Within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, Yellow Freight System, Inc. shall amend its tariffs on file with this Commission to reflect the name change authorized in Ordering Paragraph 7 above, as required by Rule 6.4 of General Order No. 80-Series.

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

Dated at San Francisco, California, this 1st day of JULY, 1969.

William Symons, Jr.
President

Augustus

John P. Morrissey

[Signature]
Commissioners

Leicester J. Mahoney, Jr.

Yellow Freight System, Inc. a corporation, by the certificate of public convenience and necessity granted in the decision in the margin, is authorized to operate as a highway common carrier, as defined by Section 213 of the Public Utilities Code for the transportation of Class A and B explosives as described in and subject to regulations of Motor Carriers Explosives and Dangerous Articles Tariff No. 13, H. S. Sonnenberg, Issuing Officer, over irregular routes and between the points described as follows:

(1) Between points in the San Francisco Bay area hereinafter described and Sacramento, Calif., including points within 20 miles of Sacramento and points on and within 20 miles (a) of U. S. Highway 40 between Richmond and Sacramento, Calif., (b) of U. S. Highway 50 between Hayward and Stockton, Calif., and (c) of California Highway 24 between Oakland and Sacramento, Calif., and (2) between points in the Los Angeles area as hereinafter described, and Sacramento, including points within 20 miles of Sacramento and points within 20 miles of U. S. Highway 99 between San Fernando and Sacramento, Calif., except, between points in the San Francisco Bay Area, and between points in the Los Angeles area.

The San Francisco Bay area includes all points in the cities of San Francisco, San Jose, and Richmond, and the unincorporated community of San Pablo, and those points within a boundary beginning at the San Francisco-San Mateo County boundary 1 mile west of U. S. Highway 101, thence south along an imaginary line 1 mile west of and parallel to U. S. Highway 101 to the railroad right-of-way of the Southern Pacific Company at Arastradero Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla co Permanente, thence easterly along Pollard Road to West Parr Avenue, thence easterly along West Parr Avenue to Capri Drive, thence south along Capri Drive to East Parr Drive, thence easterly along East Parr Drive to the Southern Pacific Company railroad right-of-way, thence south along said right-of-way to the Campbell-Los Gatos city limits, thence east along such limits and prolongation thereof to the San Jose-Los Gatos Road, thence northeast along San Jose-Los Gatos Road to Foxworthy Avenue, thence east along Foxworthy Avenue to Almaden Road, thence south along Almaden Road to Hillsdale Avenue, thence east along Hillsdale Avenue to U. S. Highway 101, thence north along U. S. Highway 101 to Tully Road, thence northeast along Tully Road to White Road, thence northwest along White Road to McKee Road, thence west along McKee Road to Capitol Avenue, thence north on Capitol Avenue to California Highway 9, thence north on California Highway 9 via Mission San Jose to Hayward, thence north along MacArthur Boulevard and Foothill Boulevard to Seminary Avenue, thence east along Seminary Avenue to Mountain

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Boulevard, thence north on Mountain Boulevard to Warren Boulevard, thence north on Warren Boulevard to Broadway Terrace, thence west on Broadway Terrace to College Avenue thence north on College Avenue to the University of California campus in Berkeley, serving all points in Berkeley on the said campus, thence from the Campus north on Euclid Avenue to Marin Avenue, thence west on Marin Avenue to Arlington Avenue (Arlington Boulevard) thence north on Arlington Boulevard to the Richmond City limits, thence over Garrard Boulevard to Point Richmond, thence southwest across San Francisco Bay to the nearest part of San Francisco, thence west and south around the city and county of San Francisco to the point of beginning.

The Los Angeles area includes all points within a boundary beginning at the intersection of the Ventura-Los Angeles County boundary line and the Pacific Ocean, thence northeast along the said county line to its intersection with California Highway 118, thence east along California Highway 118 to Sepulveda Boulevard, thence north along Sepulveda Boulevard to Chatsworth Drive, thence northeast along Chatsworth Drive to the San Fernando city limit, thence west, north, and east along the said city line to McClay Avenue, thence northeast along McClay Avenue and its prolongation to the Angeles National Forest boundary, thence southeast and east along the southern boundaries of the Angeles and San Bernardino National Forests to Mill Creek Road (near Redlands), thence southwest on Mill Creek Road to the intersection of a county road 3.3 miles north of Yucaipa, thence south along said county road (in part known as Bryant Street) to Yucaipa, serving all points in Yucaipa, thence west along Yucaipa-Redlands Boulevard to U. S. Highway 70, thence west along U. S. Highway 70 to the Redlands city line, thence around the south side of Redlands to Brookside Avenue, thence west along Brookside Avenue to Barton Road (Barton Avenue), thence west along Barton Road and its prolongation to Palm Avenue, thence west along Palm Avenue to La Cadena Drive, thence south along La Cadena Drive to Iowa Avenue, thence south along Iowa Avenue to U. S. Highway 60, thence southwest along U. S. Highways 60 and 395 to Nuevo Road, thence east along Nuevo Road to Nuevo, thence northeast along Lakeview Avenue to Lakewiew, thence each along Pico and Mead Roads and Central Avenue to the San Jacinto City limits, thence east, south and west along the said city limits to San Jacinto Avenue, thence south along San Jacinto Avenue to California Highway 74, thence west along California Highway 74 to the city limits of Hemit, thence south, west and north along the said city limits to the railroad right-of-way of the Atchison, Topeka & Santa Fe Railway Company, thence southwest along the railroad right-of-way to Winchester Road, thence south along Winchester Road to Washington Street and south along Washington Street to Benton Road, thence west along Benton Road to the

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county road which extends from such intersection southwest to U. S. Highway 395 at a point 2.1 miles north of Temecula, thence south along the said county road to U. S. Highway 395, thence southeast along U. S. Highway 395 to the San Diego County boundary line, thence west along the said county line to the Pacific Ocean, and thence along the Pacific Coast to the point of beginning.

END OF APPENDIX A

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Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
2. Automobiles, trucks and buses; viz, new and used, finished or unfinished passenger automobiles (excluding jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Fresh Fruits and Vegetables.

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10. Explosives as described in and subject to regulations of Motor Carriers Explosives and Dangerous Articles Tariff No. 13, H. S. Sonnenberg, Issuing Officer.
11. Trailer Coaches or Campers
Note: Supersedes Decision No. 74082 in A. 45469 (A. 48547 et al).

End of Appendix A

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