

ORIGINAL

Decision No. 78839

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of: )

DESERT EXPRESS, a corporation, )  
to merge into and with WESTERN )  
GILLETTE, INC., a corporation, )  
and for transfer to WESTERN )  
GILLETTE, INC. of a certificate )  
of public convenience and )  
necessity of general commodities, )  
with specified exceptions, )  
between various points and places )  
in the State of California, )  
pursuant to Sections 851-853 of )  
the California Public Utilities )  
Code and Section 5 of the )  
Interstate Commerce Act. )

Application No. 52637  
Filed May 25, 1971

O P I N I O N

Desert Express and Western Gillette, Inc. seek authority to merge, and for the former to transfer its highway common carrier certificate of public convenience and necessity to the latter. In addition, the surviving corporation requests this Commission to restate said certificate.

Applicants are California corporations operating as certificated and permitted carriers under the jurisdiction of this Commission. In addition, they operate under the jurisdiction of the Interstate Commerce Commission. The application shows that since November 30, 1970, Desert Express has been a wholly owned subsidiary of Western Gillette, Inc., and that applicants are seeking authority to merge, all pursuant to the plenary jurisdiction of the Interstate Commerce Commission under

Section 5 of the Interstate Commerce Act. On a number of occasions this Commission has expressed its recognition of such jurisdiction as being exclusive and plenary.

After consideration this Commission finds that it is without jurisdiction over the proposed transactions. On the basis of this finding we conclude that the application should be dismissed without prejudice upon the understanding that following consummation of the merger this Commission will give consideration to the in-lieu certificate of public convenience and necessity question. A public hearing is not necessary.

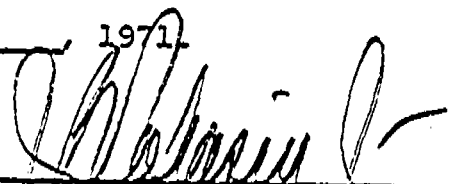
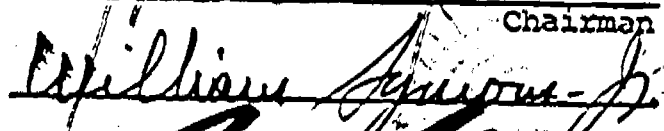
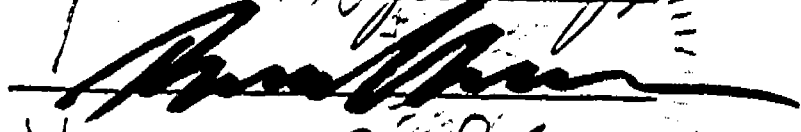

O R D E R

IT IS ORDERED that Application No. 52637 is hereby dismissed without prejudice.

IT IS FURTHER ORDERED that within thirty days after consummation of the merger of Desert Express into and with Western Gillette, Inc., the latter shall file with this Commission a certified copy of the document filed with the California Secretary of State effecting the merger, together with a copy of the order of the Interstate Commerce Commission authorizing the merger.

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

Dated at San Francisco, California,  
this 27th day of JUNE, 1971.

  
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Chairman  
  
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Vernon L. Stinger  
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Commissioners