

ORIGINAL

Decision No. 40844

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of DELTA LINES, INC., for an order )  
under Section 63(a) of the Public )  
Utilities Act authorizing publica- ) Application No. 28049  
tion of rules, rates, and charges )  
resulting in new or increased rates )  
and charges. )

Appearance

Frederick W. Mielke, for applicant.

O P I N I O N

Delta Lines, Inc. is a highway common carrier engaged in the transportation of property between points in the San Francisco Bay area on the one hand and Sacramento, Stockton and intermediate points on the other. By this application, as amended, it seeks authority to establish charges for delays to its motor vehicle equipment and for storage of undelivered shipments.

A public hearing was had at San Francisco on September 24, 1947, before Examiner Jacopi.

Applicant proposes charges of \$5.00 per hour for delays involving equipment and driver and \$6.50 per hour for those involving equipment, driver and helper. The proposed charges would apply to delays for which applicant is not responsible occurring in connection with pickup or delivery of shipments at stores, warehouses or docks.

For storage of undelivered shipments at applicant's terminals, it proposes a charge of 6 cents per 100 pounds per day, minimum 50 cents per shipment, applicable when the consignor or consignee fails to furnish disposition instructions upon applicant's request.

When storage space is not available at the terminal, the shipment would be placed in suitable public storage at owner's risk and expense.

Applicant's president explained that the purpose of the proposals is to obtain more efficient performance of equipment in connection with pickup and delivery service, to relieve his company of added expenses not of its own making, and to place the burden of such expenses upon the patrons involved in the delays or nondeliveries. He testified that serious delays to equipment have been encountered at a number of shipper loading and unloading facilities and at water carrier docks located at various points served. Delays experienced at such points, he said, have ranged from one-half hour to eleven hours. The witness attributed the delays to inadequacy of, and congestion at, the shippers' loading and unloading facilities and to improper booking or marking by shippers of freight for movement by water carriers. He asserted that the proposed charges of \$5.00 and \$6.50 per hour for delays, although not based strictly on costs, are reasonable in view of the necessity of holding delays to a minimum.

In regard to the proposed provisions for storage of undelivered shipments, the witness indicated that it is usually necessary to return such shipments to applicant's terminals. He said that this involves providing storage, extra handling and other services for which applicant's tariff does not provide a charge. The witness maintained that such services are not included in the rates for transportation, that providing the services without charge is burdensome, and that the proposed rule is reasonable for applicant's operations.

No one opposed the granting of the application.

Demurrage charges are maintained by carriers for the purpose of avoiding undue detention of equipment. Likewise, storage charges are maintained to avoid shipments remaining on hand undelivered for an undue period of time. Charges of this character are ordinarily included in common carrier tariffs. They do not necessarily reflect the actual costs involved. The proposed charges have been justified.

However, the rules proposed by applicant appear to lack the definiteness and certainty that is necessary in tariff publications. The rule dealing with delays fails to indicate when the charges for delays commence to operate. Likewise, the storage rule fails to provide for the time within which shippers are required to furnish disposition instructions on undelivered shipments to forestall application of storage charges. Applicant conceded that in the storage rule provision for a period of 48 hours before application of storage charges would be appropriate for transmission of notice of nondelivery and disposition instructions. Other minor changes in that rule and in the delay rule also appear warranted in the interest of clarity. The proposed rules will be modified accordingly.

Upon consideration of all the facts of record, we are of the opinion and hereby find that the proposed rules and charges have been justified to the extent shown in the order herein, and that in all other respects applicant's proposals have not been justified.

O R D E R

Public hearing having been had in the above entitled application and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Delta Lines, Inc. be and it is hereby authorized to establish in its Local and Joint Freight Tariff No. 3, Cal. P.U.C. No. 2, within sixty (60) days from the effective date of the order and on not less than ten (10) days' notice to the Commission and to the public, the following rules:

Delays to Equipment

Delays to equipment which occur through no fault of the carrier at stores, warehouses, or water carrier docks after call for receipt or tender of delivery of the shipment by the carrier will be charged for at the rate of \$5.00 per hour when such equipment is being attended or operated by the driver only. When, in addition to the driver, it is accompanied by a helper necessary to load or unload the shipment, such delays will be charged for at the rate of \$6.50 per hour. In computing time of delays the actual time consumed in loading and unloading shall be excluded.

Failure to Accomplish Delivery  
Storage Charge

If the carrier, through no fault of its own, is unable to effect delivery of a shipment at point of destination, every effort will be made to secure from consignor or consignee instructions as to disposition desired. When such instructions are not received within 48-hours from the time of notification of non-delivery, the shipment will be held at carrier's nearest terminal subject to a storage charge of 6 cents per 100 pounds per day or fraction thereof including Saturdays, Sundays and holidays, minimum charge 50 cents per shipment, or, when space is not available at said terminal the shipment will be placed in suitable public storage at owner's risk and expense and consignor and consignee immediately notified thereof. When the shipment is held at carrier's terminal as provided herein, the liability of the carrier will be that of a warehouseman only.

When redelivery of the shipment is requested, an additional charge of 13 cents per 100 pounds will be assessed therefor, and for each attempt at redelivery which cannot be accomplished through no fault of the carrier.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraph, the application, as amended, be and it is hereby denied.

This order shall become effective twenty (20) days from the date hereof.

Dated at Los Angeles, California, this 28<sup>th</sup> day of October, 1947.

Harold A. Kule  
Justice F. C. ...  
A. J. ...  
Samuel ...  
Commissioners