

ORIGINALDecision No. 50080

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
MILES MOTOR TRANSPORT SYSTEM, a cor-)	
poration, to sell, and DELTA LINES,)	
INC., a corporation, to buy, automo-)	Application No. 34892
tive equipment and operative rights;)	(as amended)
and for authority of applicant DELTA)	
LINES, INC. to execute a corporation)	
installment note.)	

Edward M. Berol, for Miles Motor Transport System, and
Frederick W. Mielke, for Delta Lines, Inc., applicants.
Willard S. Johnson, for J. A. Nevis Trucking, Inc.,
and Robert W. Walker and Richard K. Knowlton,
for Santa Fe Transportation Company, protestants.

O P I N I O NApplication and Amendments

Applicants Miles Motor Transport System, hereinafter referred to as Miles, and Delta Lines, Inc., hereinafter referred to as Delta, filed their application November 20, 1953.

Miles operates as a highway common carrier pursuant to certificates of public convenience and necessity issued by this Commission. Its operations include the transportation of general commodities with certain exceptions, of all weights between the Los Angeles territory, on the one hand, and the Sacramento area, on the other hand, serving certain intermediate points, pursuant to the Lillie certificate hereinafter referred to. Miles also operates as a highway common carrier pursuant to other operating authority in the transportation of general commodities, with certain exceptions, in shipments of not less than 20,000 pounds or subject to a charge not lower than applicable on shipments of 20,000 pounds between these same points.

Delta also operates as a highway common carrier pursuant to certificates of public convenience and necessity issued by the Commission. Its operations include the transportation of general commodities, with certain exceptions, between San Francisco Bay points and Sacramento and Stockton, serving intermediate points and points generally north of Sacramento.

Pursuant to agreement dated November 13, 1953, Miles proposes to transfer to Delta certain automotive pick-up and delivery equipment listed in Exhibit A attached to the application, which includes six 1951 Model No. 6503 Chevrolet trucks equipped with 14-foot Fruehauf van bodies, two 1950 Model F C-304 G.M.C. trucks equipped with 14-foot Fruehauf van bodies, five 1944 Model M S Chevrolet trucks equipped with open rack bodies, one 1944 Model M S Chevrolet truck equipped with Brown van body, two 1947 Ford V-8 1-1/2 ton trucks equipped with homemade vans, one 1953 Ford 6 Model F-500 truck equipped with homemade van, and three 1950 Model F C-303 G.M.C. trucks equipped with 14-foot Fruehauf van bodies.

The agreement also provides for the transfer from Miles to Delta of the operative rights granted to Lillie Transportation Company, Inc., by Decision No. 43003, dated June 14, 1949, which rights were subsequently transferred to and are now held by Miles pursuant to Decision No. 48577, dated May 12, 1953. The record shows that the operative rights set forth in Decision No. 40935 dated November 19, 1947 were included in the application herein through inadvertence. Said operating rights are not included in the agreement and have been excluded from the application herein by the first amendment thereto filed February 23, 1954. The operative rights set forth in Decision No. 43003 which herein are referred to as the Lillie rights authorize Miles, without weight limitation, to conduct operations between the Los Angeles territory on the one hand and North Sacramento and Turlock and intermediate points (including Modesto and Stockton)

located on U. S. Highway 99, on the other hand.

In conducting its operations pursuant to the said Lillie rights between the Los Angeles area and the Sacramento area and certain intermediate points, Miles performs a service involving substantially the transportation of less truckload traffic. In order to perform this service Miles must maintain a fleet of pick-up and delivery equipment in the Los Angeles and Sacramento areas and platforms for the handling of less truckload traffic. Miles has determined it would be to its best interest to dispose of all of its less truckload operations between the Los Angeles area and the Sacramento area and intermediate points and confine itself to the transportation of commodities moving between these points generally in larger lots of 20,000 pounds or more as presently authorized in its other certificates.

Delta, on the other hand, is a carrier of long experience in the handling of less truckload traffic. It has complete and suitable terminal and pick-up and delivery facilities in the Sacramento area for the handling of the type of traffic presently being handled there by Miles. Delta and Miles have been interchanging traffic at Sacramento and Stockton. The management of Delta has determined that since Miles has concluded to sell its said Lillie operating rights and its pick-up and delivery equipment it would be to the advantage of Delta to acquire them.

As consideration for the above transfers Delta has agreed to pay Miles the sum of \$100,000 of which \$1,666.66 is payable in cash and the balance of \$98,333.34 is to be represented by a promissory note bearing interest at the rate of five per cent per annum and payable over a period of 59 months. Of the total sum of \$100,000 the sum of \$53,300 is for automotive equipment and the sum of \$46,700 is for operative rights.

Applicants are requesting authority from the Commission for Miles to sell to Delta the automotive equipment and operative rights described above and for Delta to execute its corporation installment note also described above.

Pursuant to request granted at the hearing applicants on March 17, 1954, filed the second amendment to the application stating that Miles has joint rates with the following named carriers:

Interline Motor Express
Merchants Express Corporation
Oregon-Nevada-California Fast Freight.
Peters Truck Line
Sacramento Freight Lines
California Cartage Company, Inc.
California Cartage Express
Public Freight System
San Diego Forwarding Company
Smith Transportation Company
Southern California Freight Lines
Sterling Transit Company, Inc.
Thompson Truck Lines
Victorville-Barstow Truck Line
Western Truck Lines

If the transfers proposed are authorized, applicants request authority from this Commission, if such be required, for Delta to continue in effect such joint rates.

Public Hearing

Public hearings on the application were held in San Francisco before Commissioner Scoggins and Examiner Cline on March 10 and March 11, 1954. The matter was taken under submission upon the filing of the second amendment to the application on March 17, 1954.

At the hearing the Santa Fe Transportation Company entered a protest to the proposed transfer because it would result in the formation of another single line carrier between the Los Angeles area and the San Francisco area in competition with the Santa Fe Transportation Company.

J. A. Nevis Trucking, Inc., also entered a protest to the proposed transfer, but limited its protest to the transportation of iron and steel and iron and steel articles and tinsplate in lots of 30,000 pounds or more, having origin or destination at Pittsburg, California.

Transfer of Equipment and
Operative Rights

Exhibit No. 1 shows that Miles operated at a loss of \$22,553.42 for the period of July 1, 1953, to December 31, 1953, and the record shows that this loss is attributable to the less truckload shipments which Miles interlined with Delta under the Lillie rights which Miles is seeking to transfer herein. The pro forma profit and loss statement for the same six-month period which reflects the reduction in revenues and expenses which it is estimated would result from the transfer by Miles of its less truckload interline operations under the Lillie rights shows a net income of \$21,087.40, an increase of \$43,640.82 over the actual loss. As stated in the application Miles is not only seeking authority to transfer its said Lillie rights but it is also seeking authority to transfer the pick-up and delivery equipment which will no longer be needed after the transfer. To handle split delivery shipments Miles either will continue to maintain one or two pick-up trucks in the Los Angeles area or will farm out the deliveries to local draymen.

Miles' less truckload interline traffic between the Los Angeles area and the San Francisco area is preponderantly northbound. This imbalance in favor of northbound traffic does not apply to Miles' truckload shipments.

Although Exhibit No. 3 shows that Delta sustained an operating loss of \$21,292.32 during 1953, its financial condition compares favorably with that of Miles.

If the transfer of the said Lillie operative rights from Miles to Delta is authorized, Delta will be able to offer overnight service between Los Angeles and certain points in the northern part of the State such as Chico, Yuba City, Jackson and Placerville which are now receiving second-day service on the interline shipments. Delta will continue to give overnight service between the Los Angeles area and the San Francisco area. Witness Dwyer, the President of Delta, testified that Delta's background and experience with less truckload shipments will enable Delta to give the public greatly improved service if Delta is permitted to acquire the said Lillie rights.

Witness Dwyer further testified that he believes that Delta can make a profit on the operations proposed to be transferred even at the present level of less truckload income, but Delta, of course, hopes to be able to attract additional business other than is presently being handled through its interline operations with Miles.

In view of the record in this matter the possibility that Delta as a single-line carrier between the Los Angeles area and the San Francisco area or between Pittsburg and the Los Angeles area may attract business which would otherwise be handled by protestants does not make the proposed transfer adverse to the public interest. The possibility that other single-line common carriers or Delta and Miles as interline carriers may attract such business presently exists. Nothing in the records shows the degree of deflection of traffic from protestants which may occur, or that any such deflection actually will occur, in the event the proposed transfer is authorized.

We hereby find that the transfer of operating rights and equipment, as proposed by applicants, will not be adverse to the public interest and accordingly the transfer will be authorized.

The order hereafter to follow will also authorize Delta to continue in effect all joint rates as requested in the second amendment to the application on file herein.

Upon completion of the transfer authorized herein Delta should consider applying to the Commission for a new certificate covering all its operative rights to be issued in the place and stead of and to supersede its operative rights existing under separate certificates.

Issuance of Corporation
Installment Note

The record herein shows that Delta proposes to issue to Miles its corporation installment note for \$98,333.34 in the form set forth in Exhibit "D" to the application herein as partial consideration for the transfer of the said Lillie operative rights and the equipment hereinbefore described. Delta will be authorized to issue such note.

The Commission hereby finds that the money, property, and labor to be procured or paid for through the issuance of the promissory note herein authorized are reasonably required by Delta for the purposes specified herein; and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The action taken herein shall not be construed to be a finding of the value of the highway common carrier operative rights and the equipment herein authorized to be transferred.

O R D E R

The above-entitled application having been considered, a public hearing having been held, the matter having been submitted and now being ready for decision, and the Commission being of the opinion that the application should be granted, therefore,

IT IS HEREBY ORDERED as follows:

1. Miles Motor Transport System, a corporation, after the effective date hereof and on or before August 31, 1954 may transfer

to Delta Lines, Inc., the highway common carrier operating rights originally granted to Lillie Transportation Company, Inc., by Decision No. 43003, dated June 14, 1949, in Application No. 27270, and subsequently transferred to Miles Motor Transport System pursuant to Decision No. 48577, dated May 12, 1953, in Application No. 34159, and the equipment set forth in Exhibit "A" to the application on file herein in accordance with the terms and conditions set forth in the agreement dated November 13, 1953, which appears as Exhibit "C" to the application on file herein.

2. Delta Lines, Inc., after the effective date hereof and on or before August 31, 1954, may issue its promissory note in the amount of \$98,333.34 payable in fifty-nine monthly installments to Miles Motor Transport System in the form set forth as Exhibit "D" to the application on file herein and dated as provided in the agreement which appears as Exhibit "C" to the application on file herein.

3. Within thirty days after the completion of the transfer herein authorized, Delta Lines, Inc., shall notify the Commission in writing of that fact and file with it a true copy of any bill of sale or other instrument of transfer executed to effect the same, together with a report, as required by General Order No. 24-A, of the issue of the note.

4. Prior to the effective date of said transfer applicants shall, on not less than five days' notice to the Commission and the public, supplement or reissue tariffs on file with the Commission in so far as they name rates (including, but not limited to, both local and joint rates), rules and regulations which pertain to the operative rights herein authorized to be transferred to show that Miles Motor Transport System has withdrawn or canceled the same and that Delta Lines, Inc., has concurrently adopted or established said rates, rules and regulations as its own. The tariff filings made pursuant

to this order shall in all other respects comply with the regulations governing the construction and filing of highway common carrier tariffs set forth in the Commission's General Order No. 80.

5. This order shall become effective when Delta Lines, Inc., has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$99.

Dated at San Francisco, California, this 25th day of May, 1954.

Robert E. McKel
President

Justin F. Caldwell
Kenneth Pottel
Dennis Higgins

Commissioners

