

**ORIGINAL**Decision No. 53314

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation )  
 on the Commission's own motion into )  
 the operating rights, operations )  
 and practices of INTERLINES MOTOR )  
 EXPRESS. )

Case No. 5722

Clair MacLeod, for respondent.  
Fred Bigelow, for Southwest Railroad  
 Association, interested party.  
W. C. Bricca, for the Commission's staff.

O P I N I O N

On February 7, 1956, the Commission issued an order instituting an investigation to determine whether Interlines Motor Express was exceeding the scope of its certificated operations by serving points and places on, along and within two miles laterally of U. S. Highways Nos. 99 and 97 and State Highway No. 139 between Redding and Alturas.

A public hearing was held before Examiner Thomas E. Daly on May 24, 1956, at San Francisco and the matter was submitted.

A history of the operative rights in question indicates that they were granted to Oregon-Nevada-California Fast Freight, Inc., by Decision No. 34617 dated October 13, 1941, in Application No. 23594. The certificate authorized operations between Redding and the California-Oregon State Line at New Pine Creek and all intermediate points including Alturas on and within two miles laterally of U. S. Highways Nos. 299 and 395.

By virtue of several transfers that portion of the operative rights between Redding, Alturas and intermediate points on U. S. Highways Nos. 99 and 299 was finally transferred to

respondent's predecessor in interest, Don H. Hawkey, doing business as Hawkey Transportation. (Decision No. 46974 dated April 8, 1952, in Application No. 33213.) Said decision also granted Don H. Hawkey a new certificate restating all of his operative rights. However, instead of limiting service between Redding, Alturas and intermediate points to U. S. Highways Nos. 99 and 299, the new certificate merely stated, "highways traversed between termini."

Upon acquiring the operative rights from Don H. Hawkey (Decision No. 50646 dated October 13, 1954, in Application No. 35786), respondent immediately published its tariff and commenced a circuitous service to all points on and within two miles laterally of U. S. Highways Nos. 99 and 97 and State Highway No. 139 between Redding and Alturas.

Respondent takes the position that such extended service is justified by the Commission's failure to restrict service to U. S. Highways Nos. 99 and 299 when it granted Don H. Hawkey a new certificate.

It is elementary that in a transfer proceeding the transferee can acquire no greater right than that held by the transferor. No showing of public convenience and necessity has been made in support of the extended service in question. Don H. Hawkey to whom the new certificate was granted made no claim to such additional authority notwithstanding the obvious omission on the Commission's part. It is clear that respondent has tried to take advantage of an apparent oversight, which cannot be permitted.

After consideration, the Commission is of the opinion and so finds that respondent is providing service to points on and within two miles laterally of U. S. Highways Nos. 99 and 97, and State Highway No. 139, and that said service is unlawful in that it exceeds the scope of its certificated authority.

O R D E R

An order instituting an investigation having been issued, a public hearing having been held and the Commission having been informed in the premises,

IT IS ORDERED:

(1) That Interlines Motor Express shall cease and desist from serving all points on and within two miles laterally of U. S. Highways Nos. 99 and 97 and State Highway No. 139 between Redding and Alturas.

(2) That within sixty days after the effective date hereof, Interlines Motor Express shall amend its tariffs presently on file with this Commission by deleting therefrom the tariff points and rates applicable thereto situated on and within two miles laterally of U. S. Highways Nos. 99 and 97 and State Highway No. 139 between Redding and Alturas.

(3) That subparagraphs (a) and (c) of ordering paragraph (3) as set forth in Decision No. 46974 dated April 8, 1952, in Application No. 33213 are hereby amended to read as follows:

(a) Between Sacramento, North Sacramento, West Sacramento, McClellan Field, San Francisco, South San Francisco, Oakland, Alameda, San Leandro, Emeryville, Berkeley, Albany, El Cerrito and Richmond, on the one hand, and all points between Redding and Alturas, excluding Redding, on the other hand; service is authorized to and from all points within two miles laterally of U. S. Highways Nos. 99 and 299 between Redding and Alturas;

(c) Between Redding, Alturas and intermediate points, and all points within two miles laterally of U. S. Highways Nos. 99 and 299 between Redding and Alturas.

(4) That the Secretary is directed to cause personal service of this order upon Interlines Motor Express.

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

Dated at San Francisco, California, this 26th day of June, 1956.

Arthur E. Mitchell President  
Justice D. Calmes  
Paul F. ...  
...  
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 Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.