

ORIGINALDecision No. 56120

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DELTA LINES, INC., a corporation,
for a certificate of public convenience
and necessity to extend its highway
common carrier service to Concord,
Walnut Creek, Lafayette and Orinda.

Application No. 31476

In the Matter of the Application
of DELTA LINES, INC., a corporation,
for a certificate of public convenience
and necessity to extend its service.

Application No. 31497

Frederick W. Mielke, for applicant.SUPPLEMENTAL OPINION

On August 14, 1951, the Commission issued Decision No. 46075 in Applications Nos. 31476 and 31497, wherein it granted Delta Lines, Inc., a certificate of public convenience and necessity to operate as a highway common carrier between certain points as an extension of its then existing operating rights. Briefly this decision, in part, granted applicant a certificate of public convenience and necessity to operate as a highway common carrier:

- (a) Between Roseville, Placerville, Folsom, Jackson, Martell, Sutter Creek, Plymouth, Ione, Dublin, Pleasanton, Livermore, Tracy, Lyoth, Lathrop, Lodi, Galt, Elk Grove, Florin, Woodbridge, Thornton and the Aron Canning Company plant located between Stockton and Lodi, on the one hand, and points applicant was authorized to serve at that time, on the other hand.

The decision required applicant to conduct operations over the following routes:

Between Sacramento and Roseville: U. S. Highway 40.
Between Sacramento and Placerville: U. S. Highway 50.
Between Sacramento and Plymouth, Sutter Creek, Jackson, Martell and Ione: California Highways 16, 49, 88 and 104.

Between Dublin and Sacramento: U. S. Highways 50 and 99, and any available routes to the off-line intermediate points granted in the decision.

Applicant has filed a petition for reconsideration and modification of this decision.^{1/} In this petition applicant alleges that some question has arisen as to whether, under the certificate, applicant has authority to serve points or places on the designated routes that are not specifically named in the decision. The petition requests that the terms of the order be clarified to remove any doubt as to whether applicant is authorized to serve such intermediate points. The petition also goes on to request that, if the decision is construed so as not to include the right to serve all points or places on the designated routes, it should be modified to include such right.

The petition further alleges that, at the time of the original applications, applicant had sought authority to serve all points within five miles of the designated routes or highways. These lateral rights, however, were not included in the certificate. Applicant requests that the decision be modified to include these lateral rights.

In support of its requests concerning intermediate points and lateral rights, applicant alleges in its application that shipments are constantly being tendered to applicant for transportation to destinations other than at the specific towns or cities named in the order. The petition also alleges that requests are similarly received for transportation of shipments to or from points that are off the designated routes. It is also alleged, with respect to the lateral rights sought, that the absence of these rights places applicant at a competitive disadvantage with other carriers to whom

^{1/} A public hearing was held on this petition on October 3, 1957 at San Francisco before Examiner William L. Cole.

lateral rights have been granted along routes or within the territory here involved.

It is the Commission's conclusion that its existing order is not ambiguous with respect to the question of intermediate points. The opinion of the decision, after naming the specific points involved, went on to state that the request to serve all other points would be denied. Notwithstanding this fact, however, after full consideration of applicant's petition, the Commission finds and concludes that public convenience and necessity require that applicant's request be granted to the extent set forth in the following order.

Notice of applicant's petition was sent to the parties who might have an interest in the proceedings. Two protests were filed to the petition. However, these protests were withdrawn prior to the submission of the matter for decision.

At the time of the hearing, applicant amended its petition, requesting lateral rights and the right to serve intermediate points with respect to rights previously granted it to operate between Orinda, Lafayette, Walnut Creek and Concord, on the one hand, and Sacramento and Stockton, on the other. This request will be denied, however, inasmuch as a different area is involved in this latter request and any interested parties in that area did not have notice of applicant's request.

O R D E R

A public hearing having been held in the above-entitled matter and the Commission being fully informed therein, now therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Delta Lines, Inc., a corporation,

authorizing the establishment and operation of a service as a highway common carrier for the transportation of property, as follows:

- a. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and intermediate points between Sacramento and Roseville along U. S. Highway 40, on the other hand.
- b. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and intermediate points between Sacramento and Placerville along U. S. Highway 50, on the other hand.
- c. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and intermediate points between Sacramento and Plymouth, Sutter Creek, Jackson, Martell and Ione along California State Highways 16, 49, 88 and 104, on the other hand.
- d. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and intermediate points between Walnut Grove and Lodi along unnumbered county roads via Thornton and Woodbridge, on the other hand.
- e. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and intermediate points between Dublin and Sacramento, along U. S. Highways 50 and 99, on the other hand.
- f. Between points Delta Lines, Inc. is presently authorized to serve, on the one hand, and points located within five miles on either side of the routes hereinabove described in paragraphs a, b, c, d, and e, on the other hand.

(2) That the operative rights hereinabove granted are in addition to the rights granted in Decision No. 46075 and are an extension and enlargement of and consolidation with the operative rights heretofore granted Delta Lines, Inc., by this Commission.

(3) That in providing service pursuant to the certificate herein granted, Delta Lines, Inc., shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, Delta Lines, Inc. shall file a written acceptance of the certificate herein granted.

- b. Within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, Delta Lines, Inc., shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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

Dated at San Francisco, California, this 21st day of January, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners