

ORIGINALDecision No. 59585

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 conven-) Application No. 40999
 ience and necessity to extend highway)
 common carrier services and to con-)
 solidate its operating authorities.)

Frederick W. Mielke, for applicant.
Berol & Silver, by Bertram S. Silver and Bruce R. Geernaert, for Fortier Transportation Co. and Highway Transport, Inc.; Crossland, Crossland and Richardson, by Robert S. Crossland, for Valley Motor Lines, Inc., Valley Express Co., Southern California Freight Lines, Southern California Freight Forwarders, Oregon-Nevada-California Fast Freight, Inc. and McBride Delivery Service; Willard S. Johnson, for J. Christenson Co., Karlson Bros. Trucking Service, Ted Peters Trucking Company, Inc., Vernon Woods Truck Line and Crail, Becker and Stevens, dba Georgetown Express; Frank Loughran, for Sacramento Auto Truck Interline Motor Express and Di Salvo Transportation Co.; Mark A. Bozaich, for Sacramento Auto Trucks; Ralph T. Close and L. R. Guerra, for Western Truck Lines, Ltd.; Francis X. Vieira, for Reilley Truck Lines; Robert W. Walker and Matthew H. Witteman, for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company, protestants.
Robert C. Ellis, for California Motor Transport Co., Ltd. and California Motor Express, Ltd., interested parties.

O P I N I O N

Public hearings were held on this application before Examiner John Power during the year 1959. There were hearings at San Francisco on June 2 and 3; at Sacramento, June 23; at Stockton, June 24; at Los Angeles, August 4 and 5 and at Fresno, September 15. On the last named date the matter was submitted and is now ready for decision.

Applicant presented its president as an operating witness and 61 public witnesses, 14 at San Francisco, 8 at Sacramento, 15 at Stockton and 24 at Los Angeles. Applicant offered an additional

46 public witnesses. As to these it was stipulated that their testimony would be the same as that of the witnesses actually presented. Had they been called, 22 would have testified at San Francisco, 8 at Sacramento, 3 at Stockton and 11 at Los Angeles.

Protestants, at Fresno, put in operating testimony through 4 witnesses, through whom 12 exhibits were presented. The Commission is aware of the operating rights of the protestants and of the matter contained in their annual reports. In addition to the testimony concerning their own services, protestants attempted to develop other facts through cross-examination of applicant's public witnesses. It appears that most of these witnesses do not have specific complaints of existing services. However, most public witnesses did complain, as noted below, of the total number of carriers they had to use.

Delta's truck operation is a modern outgrowth of a transportation business more than one hundred years old. The business was at first conducted by water. Early in 1932, however, applicant's predecessor began the acquisition of motor carrier rights. Delta put together its present authority by acquiring, through purchase or grant, thirty-five different certificates over a period of twenty-six years. In general these authorize transportation to a number of Sacramento Valley points but not to points on U.S. Highway 99 West, except Woodland, nor to certain points on 99 East nor to Red Bluff and Redding. Service is authorized between the points indicated and the San Francisco Territory serving most intermediate points. Service is also authorized between Los Angeles Territory and the points above indicated, but no intermediate points can be served between Turlock and Los Angeles.

Delta desires by this application to fill out its rights chiefly on the Highway 99 system from Redding to Los Angeles Basin. Also, it seeks to serve Marin County points and a few Sonoma County

points. Twenty mile lateral rights are requested which would add certain other points.

Delta is well qualified by experience, finance and equipment to undertake a substantial enlargement of its service area.

The public witnesses strongly supported the application. The strongest point made by them was that the problem of multiplicity of carriers is growing. Many reported being served by twenty to more than thirty different carriers. Yet, it would appear that two or three pickup trucks arriving at the same time can congest the loading facilities of many shippers.

As a result of the problem just stated, a demand is arising for carriers with authority to serve many points. It appears that many shippers are honoring routing requests of their consignee customers when possible. This practice contributes to congestion for it often happens that numerous small carriers are included in such routings. On the positive side, the witnesses praised the service of applicant and desired that it be expanded. They anticipated that they would make use of the expanded service if offered. It appears that the application should, in the main, be granted.

To this general conclusion exceptions should be noted relating to the Monterey Bay area and the more sparsely settled areas.

Delta requested lateral rights which would authorize service to Santa Cruz and Watsonville. The proof offered on this facet of the application was substantially less than on other points. This area will be excluded from the following order.

The other exception involves remote, sparsely inhabited points. Such points are usually, but not always, located in mountain or desert areas. Delta already has the right to serve a few such points. Others are served either by other large carriers or by local, small carriers. For the present the situation in these remote areas will be left in statu quo. ✓

With the exceptions noted, the Commission finds that public convenience and necessity require that the authority sought in the application be granted.

Applicant is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder of a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Public hearings having been held and based upon the evidence adduced therein and the application and the amendment to the application,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Delta Lines, Inc., authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes particularly set forth in Appendices A, B and C attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is

placed on notice that it will be required, among other things, to file annual reports of its operations and ~~to comply with~~ and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

(3) That the certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supercedes all existing highway common carrier operating authority and certificates of public convenience and necessity heretofore granted to or acquired by Delta Lines, Inc., which operating authority and certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph (2) (b) hereof.

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

Dated at San Francisco, California, this 1st day of February, 1960.

Ernest R. Page
President
John P. Smith
Matthew J. Gal
E. J. Fox
Theodore Jensen
Commissioners

Delta Lines, Inc., by the certificate of public convenience and necessity granted in decision noted in the margin, is authorized to transport general commodities between the points hereinafter designated:

1. U.S. Highway 99 between Project City and Red Bluff.
2. U.S. Highway 99W between Red Bluff and its intersection with U.S. Highway 40 near Davis.
3. U.S. Highway 99E between Red Bluff and Roseville.
4. U.S. Highway 40 between San Francisco and Colfax.
5. All points and places within the area bounded by U.S. Highways 99W, 99E and 40.
6. State Highway 24 between Marysville and Pulga.
7. Unnumbered highway between Oroville and its junction with U.S. Highway 99E, approximately 12 miles northwest of Oroville.
8. Unnumbered highway between Oroville and Palermo.
9. Unnumbered highway between Marysville and Hammonton.
10. Unnumbered highway between Marysville and Camp Beale.
11. All points and places within the area bounded by U.S. Highways 40, 50 and 99.
12. U.S. Highway 50 between Sacramento and Placerville.
13. State Highway 16 between Sacramento and Plymouth.
14. State Highway 49 between Plymouth and Angels Camp.
15. State Highway 88 between Stockton and Jackson.
16. State Highway 8 between Stockton and Mokelumne Hill.
17. Unnumbered county road between Mokelumne Hill and West Point.

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18. State Highway 12 between Valley Springs and San Andreas.
19. State Highway 4 between Angels Camp and Lake Alpine.
20. Unnumbered highway between Ione and Buena Vista.
21. Unnumbered highway between State Highway 49 and Kentucky House.
22. U.S. Highways 101 and 101 Bypass between Novato and Gilroy.
23. State Highways 37 and 48 between U.S. Highways 101 and 40.
24. State Highway 29 between Napa and Vallejo.
25. San Francisco Territory as described on Appendix B hereto attached.
26. State Highway 21 between Dublin and Mission San Jose.
27. U.S. Highway 99 between Stockton and Los Angeles Basin Territory as that territory is described on Appendix C hereto attached.
28. Applicant may serve any point within 3 miles of any highway or area named herein and also:
 - (a) Any point within 20 miles of Sacramento.
 - (b) Any point within 20 miles of U.S. Highway 99 between Stockton and Bakersfield, except that applicant is not authorized to serve any point on State Highway 140 east of Planada or on U.S. Highway 466 east of Edison.
 - (c) Any point within 12 miles of San Jose.
 - (d) Any point within 10 miles of Stockton.

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(e) Any point within 5 miles of U.S. Highway 40 west of Colfax, U.S. Highway 50 west of Placerville or San Rafael.

29. Delta Lines, Inc., may serve between any two points both of which are included in the above descriptions, or any of them, without limitation.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
3. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
4. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
5. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; north-easterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwestly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U. S. Highway No. 99; north-westerly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwestly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.