

ORIGINALDecision No. - 61921

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-)
 ience and necessity to extend high-)
 way common carrier services and to)
 consolidate its operating authori-)
 ties.)

Application No. 42431

Frederick W. Mielke, for applicant.
Bertram S. Silver, for Interlines Motor Express;
Frank Loughran, for Peters Truck Lines;
Marvin Handler and Daniel W. Baker, for
Nielsen Freight Lines, Willig Freight Lines
and Antoni Truck Lines; Ralph T. Close, for
Western Truck Lines; Berol and Geernaert by
Edward M. Berol, Bruce R. Geernaert and
George M. Carr, for Valley Motor Lines et
 al, Merchants Express of California and
 Fortier Transportation Company; Lambert and
 Lemmon by James W. Winchell and John Vincent
Lemmon, for Joe Saia Trucking Company, pro-
 testants.
Richard A. Ferrero, for T & S Motor Express,
 interested party.

O P I N I O N

This application was filed on July 7, 1960. The applicant presented its case in five days of hearing between October 4 and November 16, 1960. Two days of hearing were at San Francisco, one at Sacramento and two at Los Angeles where applicant rested on November 16. Protestants offered evidence on three days, January 24, 25, 26, 1961, with one day at Santa Rosa. All hearings were before Examiner John Power.

The question of submission arose on January 26, 1961 at San Francisco and the examiner divided the matter into two parts. The portion dealing with areas south of U. S. Highway No. 40 (except the Lake Tahoe region) was submitted unconditionally. The portion dealing with Lake Tahoe and the area north of Highway No. 40 was

submitted subject to briefs. At present only the first part (south of U. S. 40) is ready for decision. The basis of the separation was the decided difference between the areas in operational conditions and need for service, and population density and growth.

Delta Lines, Inc., presently is authorized to serve along U. S. Highway No. 101 from the Marin-Sonoma County boundary line to approximately Watsonville. On U. S. Highway No. 99 south of U. S. Highway No. 40 applicant can serve to and including the Los Angeles Basin Territory. Broad lateral rights are held in the San Joaquin Valley. By the present application, excluding those areas not ready for decision, applicant seeks rights along U. S. Highway No. 101 and State Highway No. 1 from Watsonville to the Los Angeles Basin. It also requests the right to serve San Diego Territory and the area between it and the Los Angeles Basin.

Applicant presented 42 witnesses and four exhibits in support of its application. The shipper witnesses supported the application. In general, they testified to their familiarity with the service of Delta. In addition they were satisfied and pleased with this service and would like to see it extended. If it were so extended they would use it.

Protestants' showing consisted of the testimony of an operating witness from each of the protesting carriers. Their evidence indicated the service now available by existing highway common carriers in the sought area generally and their ability to provide facilities for whatever transportation need might arise therein. Such testimony, though general, was directed primarily to the northern area encompassed by this application which was submitted separately and will be treated with in a subsequent decision.

After thorough consideration of the evidence herein, the Commission finds that public convenience and necessity require that the authority sought in the submitted portion of the application be granted.

The applicant's fitness to expand its operation was supported by its exhibits and operating witness. Delta Lines, Inc., is an offshoot of a water transport organization which is more than 100 years old. In 1932 this company began to acquire motor truck feeder lines by purchase and grant. By 1946 these highway operations had been separated from the water operations, and had assumed its present name. Thus Delta Lines, Inc., has at least 29 years of successful motor carrier operations. It has continued to expand since 1946, both by purchase and by grant, to its present service area. The history of this operation reveals an ability to digest the shocks of commercial fluctuation as well as those which result from expansion.

Applicant's finances are adequate for the purposes of the application. As of October 21, 1960, it was operating 704 pieces of equipment. It operates 12 terminals and 13 agency stations. Applicant's president, who was its operating witness, described each type of station. A terminal is a full scale setup operated by Delta Lines personnel. An agency station is one operated by an independent contractor who will accept dropped freight and make terminal deliveries. Management and other personnel we find to be adequate.

The Commission finds and concludes that applicant is capable of undertaking the added duties and responsibilities proposed by that portion of the application now ready for decision.

Delta Lines, Inc., 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 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

An application having been filed, a public hearing having been held and based on the evidence therein adduced,

IT IS ORDERED:

1. That the certificate of public convenience and necessity granted to Delta Lines, Inc., a corporation, by Decision No. 59585, dated February 1, 1960, as amended by Decision No. 59897, dated April 5, 1960, in Application No. 40999, is hereby further amended by substituting Second Revised Pages 2 and 3 in the place and stead of First Revised Pages 2 and 3, respectively, of Appendix A to Decision No. 59585.

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 and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.

- b. Within one hundred twenty 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.

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

Dated at San Francisco, California, this 1st day of May, 1961.

Genevieve R. [Signature]
President
[Signature]
[Signature]
George E. Hoover
Frederick B. Halbach
Commissioners

14. State Highway 4 between Angels Camp and Lake Alpine.
15. U.S. Highways 101, 101 Bypass and 101 Alternate between Novato and San Ysidro.
16. State Highway 29 between Napa and Vallejo.
17. San Francisco Territory as described in Appendix B attached hereto without lateral rights other than those authorized by Paragraph 15 above.
18. State Highway 21 between Dublin and Mission San Jose.
19. State Highway 1 between San Francisco and Carmel.
20. Unnumbered county road between Salinas and Monterey.
21. U.S. Highway 99 between Sacramento and Los Angeles Basin Territory as described in Appendix C attached hereto. (See Exceptions 1 and 2).
22. State Highway 152 between Watsonville and Califa.
23. State Highway 198 between San Lucas and the junction of said highway with U.S. Highway 99 near Goshen.
24. U.S. Highway 466 between Paso Robles and Famoso.
25. U.S. Highway 399 between Ventura and Greenfield.
26. State Highway 166 between the junctions of said highway with U.S. Highway 101 near Santa Maria and U.S. Highway 99 near Wheeler Ridge.

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27. State Highway 126 between Ventura and the junction of said highway with U.S. Highway 99 near Castaic.
28. Los Angeles Basin Territory as described in Appendix C attached hereto. (See Exception 1).
29. U.S. Highway 395 between Los Angeles Basin Territory as described in Appendix C attached hereto and San Diego. (See Exception 1).
30. Through routes and rates may be established between any and all points and places specified in Paragraphs 1 through 29, inclusive.

EXCEPTION 1: Applicant shall have no lateral rights based on the boundary lines of Los Angeles Basin Territory.

EXCEPTION 2: Applicant is not authorized to serve any point on State Highway 140 east of Planada or on U.S. Highway 466 east of Edison.

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. Petroleum or petroleum products 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.

End of Appendix A

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