

Decision No. 62850**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of
 DELTA LINES, INC., a corporation,
 for a certificate of public con-
 venience and necessity to extend
 highway common carrier services
 and to consolidate its operating
 authorities.

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, protestants.
Richard A. Ferrero, for T & S Motor Express,
 interested party.

O P I N I O N

The submission of this matter was divided. Points applied for in the southern part of the State were disposed of in Decision No. 61921 which was issued May 1, 1961. The remainder of the proceeding was submitted on briefs. These have been received and the matter is ready for decision.

The northern points requested are those here under consideration. Among them are U. S. Highway 101 points, Petaluma-Willits and Lake County points, U. S. Highway 99 points, Project City-Oregon state line, U. S. Highway 97 points, Weed-Oregon state line and a number of points in or east of the Sierra Nevada mountains from the Oregon state line south to the south shore of Lake Tahoe.

Delta's present service includes virtually the whole of the Sacramento Valley and a few adjacent Sierra points. Some of the routes requested are extensions of its present routes.

Applicant's evidence was weaker on this portion of the application than on the part previously decided. This seems to have been due to the characteristics of the areas here involved, or most of them. Many of the towns involved are small; many of the counties sparsely populated. As a result many public witnesses who gave effective evidence on other areas had a tendency to be vague and uncertain on these. It seems clear that shipments into these northern communities were infrequent and had not seemed important to the witnesses.

Protestants introduced evidence of population, load factors and other considerations. There was evidence from them reflecting adverse operating factors.

Applicant's evidence relating to its requested extension to U. S. Highway 101 points north of the Marin County boundary line was more persuasive than that relating to other points in the northern area. A number of witnesses specifically mentioned points in this area, such as Petaluma, Santa Rosa, Ukiah and Willits. There was evidence of movements into the resort towns on Clear Lake. The evidence was weaker as far as off-route points were concerned.

It appears that applicant has established public need for its service to Willits on U. S. Highway 101 and those points in the immediate vicinity of Clear Lake. No need for lateral rights has been shown. The following order will be drafted accordingly.

Applicant presented strong evidence concerning the Truckee-Lake Tahoe region. Applicant also possesses intrastate operating rights obtained from an interstate carrier which had been serving most of these points out of Reno. We find that an extension of applicant's operating authority in this area should be granted.

Upon consideration of the evidence the Commission finds that applicant has failed to establish that public convenience and necessity require the service proposed by the portion of the application here considered except as hereinabove specifically found otherwise.

The Commission finds that public convenience and necessity require that applicant's operating authority be extended as provided in the following order.

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 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 that:

1. The certificate of public convenience and necessity granted to Delta Lines, Inc., a corporation, by Decision No. 59585, dated February 1, 1960, in Application No. 40999, as amended, is hereby further amended by substituting Second Revised Page 1 and Third Revised Pages 2 and 3 in the place and stead of First Revised Page 1 and Second Revised Pages 2 and 3, respectively, of, and by adding an Original Page 4 to, Appendix A to Decision No. 59585.

2. 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 and insurance requirements of the Commission's General Order No. 100-B. 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-B, 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.

3. Except to the extent that this application has been granted by Decision No. 61921 herein and by this decision, it is hereby denied without prejudice.

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

Dated at San Francisco, California, this 21st day of NOVEMBER, 1961.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Delta Lines, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport property as follows:

GENERAL COMMODITIES with exceptions hereinafter noted, between all points on the highways or within the areas hereinafter enumerated, including points within twenty miles laterally of enumerated highways and of the boundaries of described areas except where different lateral rights or no lateral rights are specifically noted:

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 California-Nevada State boundary line.
5. State Highway 89 between its intersection with U.S. Highway 40 near Truckee and its intersection with U. S. Highway 50 at Tahoe Valley.
6. State Highway 28 between its intersection with State Highway 89 near Tahoe City and the California-Nevada State boundary line.
7. U.S. Highway 40(A) between Marysville and Pulga.
8. All points and places within the area bounded by U.S. Highways 40, 50 and 99.
9. U.S. Highway 50 between Sacramento and California-Nevada State boundary line.
10. State Highway 16 between Sacramento and Plymouth.
11. State Highway 49 between Plymouth and Angels Camp.

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12. State Highway 88 between Stockton and Jackson.
13. State Highway 8 between Stockton and Mokelumne Hill.
14. Unnumbered county road between Mokelumne Hill and West Point.
15. State Highway 12 between Valley Springs and San Andreas.
16. State Highway 4 between Angels Camp and Lake Alpine.
17. U.S. Highways 101, 101 Bypass and 101 Alternate between Willits and San Ysidro.
18. State Highway 29 between Napa and Vallejo, also between its junction with an unnumbered county road called the Lower Lake Road and its junction with State Highway 20 at or near Upper Lake. (See Section 2.)
19. State Highway 20 between its junctions with U.S. Highway 101 near Calpella and State Highway 53 east of Clear Lake Oaks.
20. State Highway 53 between its junction with State Highway 20 and Lower Lake.
21. An unnumbered county road called Lower Lake Road between its junction with State Highway 29 and Lower Lake.
22. San Francisco Territory as described in Appendix B attached hereto without lateral rights other than those authorized by paragraph 17 above.
23. State Highway 21 between Dublin and Mission San Jose.
24. State Highway 1 between San Francisco and Carmel.
25. Unnumbered county road between Salinas and Monterey.
26. U.S. Highway 99 between Sacramento and Los Angeles Basin Territory as described in Appendix C attached hereto. (See Exceptions 1 and 2.)

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27. State Highway 152 between Watsonville and Califa.
28. State Highway 198 between San Lucas and the junction of said highway with U.S. Highway 99 near Goshen.
29. U.S. Highway 466 between Paso Robles and Famoso.
30. U.S. Highway 399 between Ventura and Greenfield.
31. 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.
32. State Highway 126 between Ventura and the junction of said highway with U.S. Highway 99 near Castaic.
33. Los Angeles Basin Territory as described in Appendix C attached hereto. (See Exception 1.)
34. U.S. Highway 395 between Los Angeles Basin Territory as described in Appendix C attached hereto and San Diego. (See Exception 1.)
35. Through routes and rates may be established between any and all points and places specified in paragraphs 1 through 34, 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, on U.S. Highway 466 east of Edison, or on State Highway 29 between Napa and Lower Lake Road Junction.

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.

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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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