

Decision No. 66258**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)

INTERLINES MOTOR EXPRESS,
a corporation, and
BLANKENSHIP MOTORS,
a corporation,

Application No. 45264

for authority to merge operating
authorities and properties and to
temporarily lease operating author-
ities and properties; and for
authority for INTERLINES MOTOR
EXPRESS to issue stock.

O P I N I O N

This is a petition for modification of Decision No. 65451 issued herein on May 28, 1963. That decision authorized the two applicants to merge and also, pending completion of the merger, applicant Interlines was authorized to lease the operating authorities of applicant Blankenship.

Noting that there were certain duplications in the operating authority of the two companies, the decision cancelled the old certificates and issued a new one which eliminated such duplications.

Petitioners now seek modification of Decision No. 65451 which will, in effect, cancel the in lieu certificate and revive the two old ones.

In support of this request petitioners point to certain action taken by the United States Congress in October 1962. Prior to that time intrastate certificates could be registered with the Interstate Commerce Commission under the former Second Proviso of Section 206(a) of the Interstate Commerce Act.

The new legislation provides for the issuance by the Interstate Commerce Commission of certificates of registration. Such certificates of registration are required to be issued to all motor carriers who had registered their intrastate certificates prior to October 15, 1962. It is expressly provided that the certificates of registration may not exceed the scope of the intrastate certificate previously registered.

Petitioners go on to allege that both of them made appropriate filings with the Interstate Commerce Commission in February 1963. At the time of the filing of the instant petition the petitioners had not received their respective certificates of registration but these will presumably conform to the old authorities. These have been revoked, as to intrastate commerce, by Decision No. 65451.

Petitioners fear that their certificates of registration may be held up or invalidated because they will not fully conform to the in lieu certificate issued in Decision No. 65451. The law is now specific in its provision that the certificate of registration should be transferable only with the intrastate certificate. The Interstate Commerce Commission may rule that the authorities must precisely coincide. Should such a ruling be made the valuable interstate rights of the petitioners would be in danger.

Petitioners further allege that they seek no duplicating rights. They state that when their certificates of registration are issued by the Interstate Commerce Commission they will apply to both Commissions for restatements of their operating rights.

The Commission is aware of the many problems that have arisen under the 1962 amendments to the Interstate Commerce Act.

In time, of course, these problems will be settled. In the meantime, the request of the petitioners appears reasonable.

The Commission finds that public convenience and necessity require that the modifications requested in applicants' petition be made.

The Commission concludes that the petition should be granted.

O R D E R

IT IS ORDERED that:

1. Decision No. 65451 dated May 28, 1963 in this proceeding is hereby amended in the following particulars:

a) By deleting from sheet 4 of said decision the language which reads as follows:

"In view of the fact that each of the carriers owns certificates of public convenience and necessity covering the same territory, in some respects, the order herein will provide for cancellation of existing operating authorities and the issuance of an in-lieu certificate. The certificate herein granted is subject to the following provision of law:

"The Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right."

b) By amending ordering paragraph 6 of said decision to read as follows:

6. Effective concurrently with the effective date of tariff filings required by paragraph 5 hereof, the certificate of public convenience and necessity granted to Blankenship Motors by Decisions Nos. 59790 and 63049, and the certificate of public convenience and necessity granted to Interlines Motor Express by Decision No. 60984, are the property of the surviving corporation, Interlines-Blankenship Motor

Express, and authorize it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code between the points and over the routes as more particularly set forth in said decisions..

c) By amending ordering paragraph 7 of said decision to read as follows:

7. In providing service pursuant to the certificate granted in Paragraph 6 hereof, Interlines-Blankenship Motor Express shall comply with and observe the following service regulation:

a. 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.

d) By striking from said decision Appendices A, B, C and D attached thereto.

e) To the extent of any duplication of the operative rights authorized herein, such operative rights may not be separated to permit Interlines-Blankenship Motor Express to sell or transfer one certificate authority and retain another certificate authority to perform the same service.

2. As herein amended said Decision No. 65451 is continued in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 5th day of NOVEMBER, 1963.

William W. Bennett
President

Edith M. Mitchell

Robert W. Page

George G. Grover

Friedrich B. Holdhoff
Commissioners