

ORIGINAL

Decision No. 67810

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DELTA LINES, INC., a corporation, and DELTA EXPRESS, INC., a corporation, for authority of DELTA LINES, INC. to transfer operating rights to DELTA EXPRESS, INC.; and for DELTA EXPRESS, INC. to issue stock.

Application No. 46748
Filed June 23, 1964
and Amendment
Filed August 24, 1964

O P I N I O N

This is an application for an order of the Commission (1) authorizing Delta Lines, Inc. to sell and transfer a certificate of public convenience and necessity as an express corporation to Delta Express, Inc., and (2) authorizing Delta Express, Inc. to issue and sell \$10,000 par value of its common stock.

Delta Lines, Inc., a California corporation, is engaged in business as a highway common carrier transporting general freight between various points and places in California. It operates also as an express corporation in this State under a certificate of public convenience and necessity acquired pursuant to authority granted by Decision No. 66954, dated March 17, 1964, in Application No. 45897. The latter operating authority extends generally from Rio Oso, north of Sacramento, to Tulare in the San Joaquin Valley and from Monterey to Novato on the coast, thence to Sacramento.

Applicants allege that it would be advantageous to conduct the express operations through a separate corporate entity, because such a division of operations would aid and facilitate record-keeping, reports to governmental agencies, and the maintenance of the distinct functions of each type of service. To accomplish this objective, Delta Lines, Inc. proposes to sell and transfer its express operating rights to Delta Express, Inc. at an agreed price of \$10,000, which amount will be advanced to the purchaser on open account. Delta Express, Inc., a California corporation organized on or about June 16, 1964, seeks authority to issue and sell 1,000 shares of its common stock, at par, for a cash consideration of \$10,000 to be utilized as working capital.

The Commission has considered this matter and finds that: (1) the proposed sale and transfer would not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

Delta Express, 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.

The action taken herein shall not be construed to be a finding of the value of the operative rights authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1964, Delta Lines, Inc. may sell and transfer, and Delta Express, Inc. may purchase and acquire, the express corporation certificate of public convenience and necessity referred to in this application.

2. Delta Express, Inc., on or before December 31, 1964, for the purpose specified in the foregoing opinion, may issue and sell, at par, not to exceed \$10,000 par value of its common stock.

3. Delta Express, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Delta Express, Inc. shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

5. Delta Express, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

6. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of
SEPTEMBER, 1964.

Treford B. Hallock
President
Cornell A. Long
George E. Trover
William C. Stewart

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.