

ORIGINALDecision No. 69316

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of DELTA EXPRESS, INC., a)
corporation, for an in lieu)
certificate of public convenience)
and necessity to consolidate,)
restrict, and extend its authority)
as an express corporation.)

Application No. 47419
(Filed March 16, 1965,
Amended March 29, 1965)

O P I N I O N

Delta Express, Inc. is a California corporation operating as an express company between various points and places in northern California generally from Rio Oso, Dunnigan and Auburn south through Sacramento to Tulare in the San Joaquin Valley, from Sacramento to the Bay Area, north to Novato in Marin County and south to Monterey, Salinas, and Soledad.

Applicant has applied herein pursuant to Section 1010 of the Public Utilities Code, to operate as an express corporation, as that term is defined in Section 219 of said Code, for the transportation of property to, from and between all points served by Delta Lines, Inc., the applicant's principal underlying carrier.

Applicant seeks this extension of its express rights to all points presently served by Delta Lines, Inc. so it will have coextensive operating rights with its underlying highway common carrier. It is asserted that applicant's present operating authority is based on a series of certificates which grant different lateral authority, have different restrictions and sometimes overlap. Applicant's present authority does not include certain areas served by Delta Lines, Inc. and covers other points not served by Delta.

These conflicting certificates make it difficult for the applicant's employees to give accurate information on the service provided and to issue proper shipping documents, since more than 10,000 shippers with 5,500 daily shipments use the services of the applicant or its underlying carrier.

At the time this application was filed copies were mailed to nine of applicant's competitors. No one has protested the granting of the application.

The Commission finds that public convenience and necessity require that applicant provide a complete service to, from and between all points on the routes and within the areas as requested in this application. Any discontinuance of service resulting from the authority hereinafter granted will not be adverse to the public interest. A public hearing is unnecessary.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Delta Express, Inc. authorizing it to operate as an express corporation as that term is defined in Section 219 of the

Public Utilities Code for the transportation of property to, from and between all the points on the routes and within the areas presently authorized to be served by Delta Lines, Inc., as more particularly set forth in Appendices A, B and C attached hereto and made a part hereof.

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. Failure to file such reports, in such form and at such time as the Commission may direct may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Delta Express, Inc., and presently possessed by it, which certificates

are hereby 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 29th day of JUNE, 1965.

Fredrick B. Hallock
President
John E. Hatchell
George T. Grover
Augusta
William A. Desmet
Commissioners

Delta Express, 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 without lateral rights between Willits and Novato.
18. State Highway 29
 - (a) between Napa and Vallejo including lateral rights.
 - (b) 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 without lateral rights. (See Exception 2.)
19. State Highway 20 between its junctions with U.S. Highway 101 near Calpella and State Highway 53 east of Clear Lake Oaks without lateral rights.
20. State Highway 53 between its junction with State Highway 20 and Lower Lake without lateral rights.
21. An unnumbered county road called Lower Lake Road between its junction with State Highway 29 and Lower Lake without lateral rights.
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 Item No. 5 of Minimum Rate Tariff No. 4-B.

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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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APPENDIX B TO DECISION NO. 69316

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; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwesterly along McKee Road to Capitol Avenue; northwesterly along Capital 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; southwestwesterly 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; northwesterly 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; southwestwardly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestwardly 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; southwestwardly 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 shoreline of the Pacific Ocean to point of beginning.