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Decision No. 77510

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of ELMER G. FILOMEO and BRUNO  
NARDI, doing business as DIABLO  
TRANSPORTATION CO. for clarifica-  
tion of highway common carrier  
authority.

Application No. 51643

Eldon M. Johnson, for Diablo Transportation Co.,  
applicant.  
Graham & James, by Boris H. Lakusta and David J.  
Marchant, for Delta Lines and Ringsby-Pacific Ltd.,  
protestants.

OPINION AND ORDER ON REHEARING

Applicants filed their application for "clarification" of their highway common carrier authority with respect to Classes A and B explosives.

Applicants sought Commission clarification that it was proper for them, under their existing authority, to interline explosives with long-haul carriers at Camp Parks for subsequent movement to Port Chicago.

A letter was filed on behalf of Delta Lines, Inc. and Ringsby-Pacific, Ltd. protesting the application on the grounds that new operating rights were being sought under the proposed application.

On April 7, 1970 in Decision No. 77058 the Commission granted specific clarification as requested, and held that for Classes A and B explosives the interchange point of Camp Parks was proper.

Decision No. 77058 which was issued ex parte contained the following paragraph:

"One protest by a carrier was received claiming that this application was an extension of service. The Commission disagrees with this contention."  
(Opinion page 2<sub>r</sub>)

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By Decision No. 77188 rehearing of Decision No. 77058 was granted.

Rehearing was held May 21, 1970 at San Francisco before Examiner Porter.

The parties argued the point as to the scope of the rehearing and it was determined that briefs were to be filed in an effort to define the issue.

Briefs having been filed and considered by the Commission, we find that the issue is whether applicants are seeking new authority or merely a route deviation and conclude it is the latter.

We hereby find that the service to Port Chicago as interchanged at Camp Parks is within the certificated authority of applicants and is not an extension thereof.

Therefore, we affirm our opinion as expressed in Decision No. 77058 (Opinion page 2).

IT IS ORDERED that Decision No. 77058 is hereby affirmed. The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of JULY, 1970.

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Chairman

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*William J. Quinn, Jr.*  
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*James L. Sturgeon*  
Commissioners

Commissioner J. P. Wukensin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.