BP

Decision No. 83942

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of:	)	
	)	
Nielsen Freight Lines, Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 9846
	)	
Delta Lines, Inc.,	)	
	)	
Defendant.	)	
	)	

ORDER DENYING INTERIM RELIEF

Complainant, Nielsen Freight Lines, Inc. (Nielsen) is a highway common carrier holding a certificate of public convenience and necessity granted by this Commission. Pursuant to its authorization from this Commission, it provides service to various communities in Northern California in what we shall term herein the "Redwood Empire".

Defendant, Delta Lines, Inc. (Delta) is also a highway common carrier operating in various portions of California pursuant to certificates of public convenience and necessity from this Commission.

The complaint alleges that Delta is operating as a highway common carrier in the Redwood Empire without a certificate of public convenience and necessity from this Commission. Nielsen further alleges that Delta has failed to file and publish tariff schedules of rates for service in this area. According to the complaint, Delta has been operating in this manner since September 16, 1974, in competition with Nielsen . Nielsen prays for an immediate temporary cease and desist order preventing Delta from continuing this unlawful operation, with its concomitant loss of freight revenues to Nielsen.

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A review of the Commission's records indicates that Delta obtained the operating rights of Alltrans Express California, Inc. for service in the Redwood Empire by Decision No. 83292. A limited rehearing of Decision No. 83292 was granted on issues other than those raised in the instant complaint in Decision No. 83581. Decision No. 83292 is now the subject of a Writ of Review to the California Supreme Court, but the decision has not been stayed.

The Commission records further disclose that a Notice of Adoption of Tariffs of Alltrans Express California, Inc. by Delta is on file with the Commission.

Without expressing any opinion as to the legal consequences of Decision No. 83292, now under review by the California Supreme Court, and the Notice of Adoption, filed pursuant to General Order No. 80(A) of this Commission, we conclude that Defendant is operating at least under sufficient color of authority from this Commission so as to defeat Complainant's request for interim relief pending hearing on this matter. Therefore, we shall deny Complainant's request for interim relief.

IT IS ORDERED that Complainant's request for interim relief, pending hearing, is denied.

This order is without prejudice to the granting of a permanent cease and desist order following hearing should the facts and law of the case so indicate.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 30th day of DECEMBER, 1974

Vernon L. Sturgeon, President
William Symons, Jr.
Thomas Moran
Robert C. McDonald
Commissioners