

ORIGINAL

Decision 82 09 042

SEP 8 - 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BARNES PUMP COMPANY; LEBER INK)
COMPANY; MAILWELL ENVELOPES)
COMPANY; RICK CARPENTER; and)
DENNIS MILLER,)

Complainants,)

vs.)

CALIFORNIA MOTOR TRANSPORT, INC.;)
DELTA LINES, INC.; and DOES 1 -)
100,)

Defendants.)

Case 82-03-04
(Filed March 11, 1982)

ORDER OF DISMISSAL

On March 11, 1982 Barnes Pump Company, Leber Ink Company, Mailwell Envelopes Company, Rick Carpenter, and Dennis Miller (complainants) filed a complaint alleging that California Motor Transport, Inc. and Delta Lines, Inc. (defendants) have violated Public Utilities Code § 851 by merging and consolidating certain properties and operations in Chico, Lake Tahoe, Salinas, San Diego, and Santa Rosa in the absence of prior Commission approval. It is complainants' contention that the unauthorized and allegedly illegal merger and consolidations will serve to reduce competition in the industry and will ultimately lead to higher rates paid by shippers and ultimately by consumers.

In response, defendants allege that § 851 is not applicable since no unauthorized sales, transfer, merger, consolidation, or any other financial transaction has taken place regarding the properties in question, that the ownership of those properties has remained the

same for a period exceeding six consecutive months preceding the filing of the complaint. Defendants further allege that Delta California Industries, Inc., a Delaware corporation, is a noncarrier-holding company which owns 100% of the common stock of Delta Lines, Inc., a California corporation. Correspondingly, Delta Lines, Inc. owns all of the outstanding stock of California Motor Transport, a California corporation. Certain motor carrier operations of Delta Lines, Inc. are performed under the name of California Motor Express, which is a division of Delta Lines, Inc. Defendants also allege that the terminal properties located at Chico, Lake Tahoe, Salinas, San Diego, and Santa Rosa are held by or under the control of Delta California Industries, Inc. Finally, defendants allege that on or about March 1, 1982 various personnel changes were instituted at those facilities, that no disruption in service to the public has resulted, and that such changes have not reduced competition, nor have they resulted in any change in rates charged to shippers. ✓

Review of the pleadings indicates that insufficient facts have been alleged to warrant formal hearing of this matter. By ruling dated July 11, 1982, the assigned administrative law judge (ALJ) notified complainants that if further facts were not alleged within 30 days detailing more specifically the allegedly illegal or improper actions of defendants, he would recommend dismissal of the case to the Commission. Nothing further has been heard from complainants. We will adopt the ALJ's recommended course of action, and we will dismiss Case 82-03-04 for failure to state a cause of action.

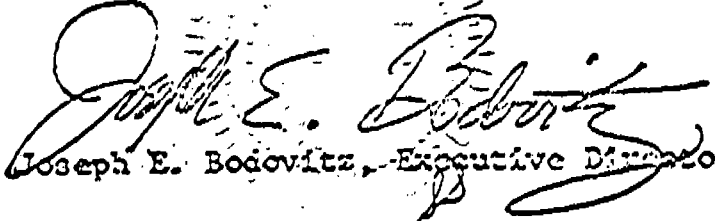
IT IS ORDERED that Case 82-03-04 is dismissed for failure to state a case of action.

This order becomes effective 30 days from today.

Dated SEP 8 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. CRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

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