

Decision No. 92532 DEC 16 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DELTA STEAMSHIP LINES, INC. }
for transfer from PRUDENTIAL LINES, INC. }
of its certificate of public convenience }
and necessity to carry passengers, }
passengers' luggage, and passengers' }
automobiles by water between San Francisco }
and Los Angeles. }

Application No. 59885
(Filed August 19, 1980)

O P I N I O N

Delta Steamship Lines, Inc. (Delta), a Louisiana corporation authorized to do business as a foreign corporation in California, requests authority to acquire the vessel common carrier certificate of Prudential Lines, Inc. (Prudential), formerly Prudential-Grace Lines, Inc., to operate between the Port of San Francisco and the Port of Long Beach in transporting passengers, passenger's luggage, and passengers' automobiles granted by Decision No. 83259 in Application No. 54922. Delta also requests that the transferred certificate be amended to read "The Port of Los Angeles" in lieu of "The Port of Long Beach". Notice of the filing of the application appeared on the Commission's Daily Calendar.

Delta is a common carrier by water of passengers and freight between certain United States ports and worldwide ports. Delta has purchased from Prudential certain of Prudential's business and services included the services involving Prudential's vessels SS Santa Mariana, SS Santa Maria, SS Santa Mercedes, and SS Santa Magdalena, the vessels which were used in conducting Prudential's worldwide, intercoastal, and intrastate water carrier service. The vessels have been chartered by Delta and Delta has continued to perform the same service in the same manner as the

vessels had been used by Prudential. In Prudential's service, through passengers had received priority and the remaining space available, if any, had been utilized for the transportation of local California intrastate passengers. Delta alleges that it does not know of any presently existing common carrier service for the transportation of passengers by water between Los Angeles and San Francisco. Because of the pleasure cruise-type service, relatively high fares, and slow transit time, Delta does not believe that the proposed service can reasonably be considered competitive with that of land and air carriers. The vessels will berth at Pier 32 at the Port of San Francisco and at Berth 154 at the Port of Los Angeles. Steaming time between the two ports will be approximately 20 hours. The proposed service will be designed for persons desiring to take an overnight pleasure cruise on luxury-type passenger-cargo vessels. The vessels are 508.6 feet in length, of 9,376 displacement tons, and have first-class accommodations for 130 persons. The regular fare will be \$150 and the deluxe fare, \$200. Most of the route will be beyond the three-mile limit in international waters off the coast of California.

Delta's purchase of Prudential's intrastate vessel common carrier operating authority is a small portion of a major transaction between the two companies under the terms of which Prudential sold and transferred to Delta its East Coast Caribbean and South American services and Prudential's West Coast Caribbean and South American services.

The application shows that Delta and its subsidiaries had net earnings for the year ended December 31, 1979 of \$8 million. At the end of the calendar year 1978 Delta and its subsidiaries had a net worth of approximately \$77 million.

Delta desires that the certificate on transfer be amended to authorize service at the Port of Los Angeles rather than at the Port of Long Beach, which is included in the former, to give it flexibility in the event it either desires or is required to change its berth in the Los Angeles area.

Findings of Fact

1. Delta and Prudential request that Prudential's vessel common carrier certificate be transferred to Delta and that upon transfer, the certificate authorize service at the Port of Los Angeles rather than at the Port of Long Beach for operational flexibility.

2. Delta has purchased certain of Prudential's worldwide, intercoastal, and California intrastate vessel carrier business and services.

3. Under the purchase agreement Delta has chartered four vessels previously used by Prudential to conduct service under the subject certificate.

4. There are no vessel carriers who presently perform service competitive to the service under the subject certificate.

5. Because of the pleasure cruise-type service, relatively high fares, and slow transit time, the proposed service will not be competitive with that of existing land or air carriers.

6. Delta is financially fit to conduct the proposed service.

7. Delta is willing and able to conduct the proposed service.

8. The public interest will not be adversely affected by the transfer.

9. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted.

2. Upon transfer the certificate should be amended to authorize Delta to serve the Port of Los Angeles rather than the Port of Long Beach.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Prudential and the issuance of a certificate in appendix form to Delta.

Delta is 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. 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. Prudential Lines, Inc. (Prudential) may sell and transfer the operative rights and property referred to in the application to Delta Steamship Lines, Inc. (Delta). This authorization shall expire if not exercised by March 1, 1981, or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer, Delta shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Delta shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff and timetable 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 and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 87-Series and 117-Series. Failure to comply with the provisions of General Orders Nos. 87-Series and 117-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, Delta shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Delta Steamship Lines, Inc., a corporation, authorizing it to operate as a common carrier by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

6. The certificate of public convenience and necessity granted by Decision No. 83259 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Delta shall comply with the insurance requirements of the Commission's General Order No. 111-Series.

8. Delta shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be thirty days after the date hereof.

Dated DEC 16 1980, at San Francisco, California.

John E. Bryan
President

Richard W. Howell
Charles T. DeWitt

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

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Appendix A

DELTA STEAMSHIP LINES, INC.
(A Corporation)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY.
AS A VESSEL COMMON CARRIER
VCC - 36

Showing common carrier by vessel operative rights, restrictions, limitations, exceptions and privileges applicable thereto.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made as revised pages or added original pages.

Issued under authority of Decision No. 92532
dated December 16, 1980 of the Public Utilities Commission
of the State of California, on Application No. 59885.

Delta Steamship Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, passengers' luggage; and passengers' automobiles when accompanying passengers, by vessel common carrier between the Port of San Francisco, California, on the one hand, and the Port of Los Angeles, on the other hand.

The transportation of local traffic will be conducted on a space available basis between San Francisco and Los Angeles in connection with the voyages of four of its vessels which operate between Los Angeles and San Francisco, on the one hand, and ports in Washington, Canada, Mexico, Central America, the Caribbean, and South America, on the other hand.