

Decision No. 40363

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOE WEST doing business as NEEDLES)
TRUCKING SERVICE, for a certificate)
of public convenience and necessity)
to operate a highway common carrier)
service between Los Angeles, Cali-)
fornia, on the one hand, and Needles,)
California, on the other hand, serving)
intermediate points east of Daggett,)
California.)

Application No. 25970
2nd Supplemental

ARLO D. POE, for applicant.
LEO E. SIEVERT by WILLIAM F. BROOKS and J. F. CUMMINS
for The Atchison, Topeka & Santa Fe Railway
Company and Railway Express Agency, Incorporated,
protestants.

O P I N I O N

Applicant Joe West holds a temporary certificate of public convenience and necessity authorizing highway common carrier operations for the transportation of property, except bulk liquids in tank trucks, explosives and commodities requiring special equipment, between Los Angeles, Zone 1, as described in Item 30-A in Appendix "A", of the Commission's Decision No. 31605, Case No. 4246, on the one hand, and Needles and points intermediate to Needles and Daggett and also the military installation of Freda, on the other hand. This temporary certificate expires June 30, 1947, unless (1) extended by further order of the Commission.

(1) The temporary certificate was granted by Decision No. 38153, dated August 14, 1945, and bore an expiration date of March 1, 1946, which has been extended by subsequent decisions, the last being Decision No. 40204, dated April 29, 1947, which bears an expiration date of June 30, 1947.

By second supplemental application, as amended, applicant requests the Commission to make permanent the temporary certificate he now holds. This supplemental application was amended to exclude the proposal to serve the United States Army Airport Base Hospital, and points between it and Daggett. This hospital is about eight miles east of Daggett on U. S. Highway No. 66. A public hearing was had thereon before Examiner Paul at Needles on March 20 and 21, 1947, and at Los Angeles on April 17 and 18, 1947, and the matter was submitted on the record.

The Atchison, Topcka & Santa Fe Railway Company and
(2)
Railway Express Agency, Incorporated, opposed the granting of the permanent certificate. These protestants had waived objection to the granting of the temporary certificate as the application was based upon the war time conditions prevailing at the time the application was filed.

Applicant maintains his headquarters and a terminal at Los Angeles. He has three tractors and semi-trailers with van bodies and one tractor and semi-trailer with a stake body with which he provides line haul operations, and one other unit which is used for pick up and delivery service at Los Angeles. Since beginning operations under the temporary certificate during the autumn of 1945, subsequent to the termination of hostilities, applicant has provided an overnight service between Los Angeles and Needles. At Los Angeles freight is picked up until 3 p.m. and taken to applicant's terminal where it is transferred to line haul

(2) The Atchison, Topeka & Santa Fe Railway Company and Railway Express Agency, Incorporated, will be referred to as Santa Fe and Railway Express, respectively.

trucks. These trucks leave Los Angeles at 6 p.m. daily except Saturdays and Sundays and arrive at Needles at 7 a.m. the following day where deliveries are made from the line haul trucks. These deliveries are usually completed by 2 p.m. on the day of arrival. On the return trip to Los Angeles trucks leave Needles at 6 p.m. daily except Saturdays and Sundays and arrive at Los Angeles the following morning at 7 o'clock. The distance between Needles and Los Angeles was stated to be about 285 miles. This service would be continued should the permanent certificate be granted.

Exhibit No. 9 in evidence shows the traffic handled by applicant between Los Angeles and Needles during a selected week of each month of 1946. Based upon such exhibit, the traffic from Los Angeles to Needles for the year would have been approximately 4940 shipments of 3040 tons from which a gross revenue of about \$40,000 would have been received. West bound traffic between these points would have been approximately 470 shipments of 760 tons with a gross revenue of about \$8000. The total amount of this traffic would have been about 5410 shipments of 3800 tons with a resulting gross revenue of about \$48,000. From this it appears that west bound traffic and revenue is about 20% of the east bound traffic and revenue.

Applicant's statement of record shows that he is financially able to conduct the service.

In support of the permanent authority sought, applicant produced testimony from 23 public witnesses. Of these witnesses, 18 were engaged in various types of business at Needles.

The remainder of these witnesses were traffic managers or representatives of wholesale distributors of various commodities at Los Angeles.

All of the witnesses testified that they have been receiving an adequate, dependable and reliable service for shipments originating at Los Angeles and destined to Needles and other points with first morning delivery by applicant for which they have a need and which they desire to have continued. Many of them emphasized a need for first morning delivery, especially for shipments of perishable commodities, emergency repair parts or supplies. Other witnesses expressed a need for an overnight service for transportation under refrigeration which applicant provides by the use of dry ice. Some stated that the refrigerator service offered by rail was not adequate because of its infrequency and the delays in transit. Other witnesses asserted that while a second day delivery service by the rail carrier, if provided, would be satisfactory for some shipments, it was not adequate for others. Rail service was criticized by a number as inadequate to their needs because it was slow and subject to delays and that time in transit varied from two to four days and in some cases longer periods.

The traffic manager of a mail order house at Los Angeles which makes regular shipments to Needles and other points which applicant proposes to serve, stated that his company uses all forms of public transportation for its shipments but a large proportion are shipped over the facilities of applicant at the request of receivers because an overnight service is provided by him.

Because of the competitive nature of its business the company requires such overnight service in order to maintain its sales volume and second morning delivery at Needles would be inadequate for its needs. Railway Express service was avoided because of the higher rate level even though its time in transit was adequate.

Operating officials of the Santa Fe and Railway Express described the service provided by these protestants between Los Angeles and Needles.

Santa Fe less carload traffic received at its Los Angeles depot before 6 p.m. destined to Needles leaves Los Angeles at about 11 p.m. and arrives at Needles approximately 24 hours later, where it is accorded a second morning delivery by a local drayman within Santa Fe's pick up and delivery zone. It operates a refrigerator car from Los Angeles to and through Needles each Monday. It was stated that before March 1, 1947, the rail car containing Needles less carload traffic left Los Angeles at about the same time but its arrival at Needles was irregular, assertedly because insufficient tonnage did not justify the operation of certain trains thereby delaying the movement of this car. Santa Fe asserts it has eliminated and overcome the delays formerly experienced in the movement of this car so that after March 1, 1947, it should arrive at Needles with less irregularity. Santa Fe officials stated that the Company was still experiencing difficulties in obtaining the type of employees suitable to railroad operations and sufficient box cars to meet its needs.

Railway Express accords Needles an overnight service from Los Angeles on three Santa Fe passenger trains. One other

passenger train carrying express leaves Los Angeles at 9 a.m. and arrives at Needles at 4:25 p.m. Local pick up and delivery service is provided at Los Angeles by Railway Express with its own equipment and a similar service is provided for it at Needles by a contract drayman.

Seven shipper witnesses at Needles were called by protestants. One witness, a dealer in general merchandise, another in jewelery and a third in the furniture business have used protestants' services which were satisfactory to them. A dealer in automotive parts and accessories uses the services of Railway Express and applicant which satisfy his needs but he would have no use for applicant's service if the rail company could provide him with a 36 hour service from Los Angeles. A witness dealing in air conditioning and refrigeration equipment and supplies had used applicant's service for approximately 90% of his traffic and Railway Express for the remainder. He stated that the express service had been slow but more recently had shown improvement and that the service provided by the applicant had been satisfactory and served his needs. On redirect examination he stated that the combined Railway Express and Santa Fe rail service would meet his needs if the rail service provided him with a 36 hour delivery. The others stated, in substance, that if they were furnished a 36 hour service by Santa Fe they would use it more often although one of them stated that it had not been satisfactory in the past.

In order to reach a conclusion whether it has been shown that public convenience and necessity require the continuation of applicant's service on a permanent basis, consideration must be

given to the adequacy of the service of protestants.

Applicant under a temporary certificate has operated a service which the evidence of record shows has been satisfactory and adequate to meet the public needs. Witnesses called by applicant uniformly expressed a need for the continuation of his service pointing out that rail service of protestant was inadequate in that second day delivery at Needles was insufficient to meet their needs for most of their shipments. It was shown that the service of protestants for the transportation of commodities requiring refrigeration is inadequate to meet the expressed needs of receivers of such commodities. While the service of the Railway Express was shown to be adequate in most cases as to time in transit, the evidence shows that it is not desirable for heavier shipments and many smaller shipments because of the higher express rates.

After full consideration of all the evidence of record it is our conclusion and we find that public convenience and necessity require the continuation of the service proposed by applicant. However, as no showing was made that there is a public need for service to and from Freda, the application in that respect must be denied.

SECOND SUPPLEMENTAL ORDER

A public hearing having been had in the above entitled proceeding, the matter duly submitted, and it having been found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Joe West authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property, except bulk liquids in tank trucks, explosives and commodities requiring special equipment, between Los Angeles, Zone 1, as described in Item 30-A, in Appendix "A" of the Commission's Decision No. 31605, Case No. 4246, on the one hand, and Needles and points intermediate to Needles and the United States Army Airport Base Hospital, situated approximately eight miles east of Daggett, on the other hand.

(2) That in providing service pursuant to the foregoing certificate, applicant shall comply with and observe the following service regulations:

- a. Applicant shall file a written acceptance of the certificate herein granted within 30 days from the effective date hereof.
- b. Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective, tariffs and time tables satisfactory to the Commission within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.
- c. Subject to the authority of this Commission to change or modify it at any time by further order, applicant shall conduct operations over and along the following route:

From Los Angeles over and along U. S. Highway No. 99 to Fontana Cutoff, thence along Fontana Cutoff and U. S. Highway No. 66 to Needles.

(3) That in all other respects Application No. 25970
is hereby denied.

The effective date of this order shall be 20 days from
the date hereof.

Dated at San Francisco, California, this 3rd
day of June, 1947.

Harold P. Kula
Justus F. Cassien
Wesley K. Powell
R. F. Friedman
Kenneth D. Potter
COMMISSIONERS