

ORIGINAL

Decision No. 45878

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DESERT EXPRESS, a California corporation,)
 for a certificate to operate as a highway)
 common carrier of commodities generally)
 between points and places in the Los)
 Angeles Territory, on the one hand, and) Application No. 31900
 points and places on and adjacent to)
 U. S. Highway 18 between Crestline and)
 Baldwin Lake (San Bernardino Mountain)
 Area), on the other hand.)

Glanz & Russell, by Theodore W. Russell, for applicant.

E. L. H. Bissinger, for Mountain Auto Line, Pacific
 Electric Railway Company, and Southern Pacific
 Company; R. W. Walker, F. G. Pfommer and Mathew H.
 Witteman, for The Atchison, Topeka & Santa Fe Railway
 Company and Santa Fe Transportation Company; Guthrie,
 Lonergan and Jordan, by Donald W. Jordan, for Mountain
 Auto Line; H. J. Bischoff and H. P. Merry, for
 Southern California Freight Lines and Southern California
 Freight Forwarders; Gordon & Knapp, by Wyman C. Knapp,
 for Pacific Freight Lines and Pacific Freight Lines
 Express, protestants.

Gordon & Knapp, by Wyman C. Knapp, for Bekins Van Lines
and Lyon Van Lines, Inc., interested parties.

O P I N I O N

Applicant requests authority to operate as a highway
 common carrier between the Los Angeles Territory and the San
 Bernardino mountain resort area, as defined in Exhibit A filed
 (1)
 with the application, for the transportation of general commodities

(1) The Los Angeles Territory is bounded, generally, by Santa
 Monica Bay, Sunset Boulevard, and Sepulveda Boulevard, on
 the west, Foothill Boulevard (State Highway No. 118) and
 U. S. Highway No. 66, on the north, Rosemead Boulevard,
 Lakewood Boulevard, and Ximeno Street, on the east, and the
 Pacific Ocean, on the south. The San Bernardino mountain
 resort area includes all of the principal points and places
 in the Crestline, Lake Arrowhead and Big Bear Lake areas.

(2)
with certain exceptions. No service is proposed to, from, or between points intermediate of said service areas. Applicant proposes to operate Monday through Friday during the summer season, May to September, inclusive, and at least three days per week in the winter season. Applicant's principal route will be U. S. Highway No. 66, Mt. Vernon Avenue and Highland Avenues (in the City of San Bernardino), and the new City Creek Road to Running Springs. State Highway No. 18 would be used as an alternate route and when transporting full loads to points in the Crestline and Lake Arrowhead areas. A so-called backway alternate route via Victorville (using U. S. Highway No. 66 and State Highway No. 18) is also requested for emergency use.

Applicant now participates in the rates set forth in Southwest Motor Tariff Bureau Local and Proportional Freight Tariff No. 18-A, California P.I.C. No. 10, of agent J. L. Beeler, and, in the event this application is granted, it would enlarge its participation therein to include the points proposed to be served and make such exceptions to said tariff as are set forth in Exhibit C attached to the application. (3)

Public hearings were held in Los Angeles and at Big Bear Lake. Evidence, both oral and documentary, having been adduced the matter was submitted for decision.

(2) The commodities excepted are: petroleum and petroleum products in tank trucks; livestock; used household goods and used office and store fixtures and equipment, as defined in Item 40 of Highway Carriers' Tariff No. 4-A, on shipments of 4,000 pounds or more.

(3) In addition to the exceptions set forth in Exhibit C, applicant intends to add to the constructive mileage applicable between the points proposed to be served, 40 miles to points located in the western portion of said mountain area and 50 miles to points in the eastern area, Running Springs being the dividing point.

Applicant now operates as a highway common carrier between Los Angeles and Lancaster, Mojave, Bakersfield, Atolia and Kramer via highways numbers 6 and 466 (Decisions Nos. 41149 and 42385). It is also authorized to operate as a radial highway common, contract, and city carrier. It is not at present operating any transportation service between the Los Angeles Territory and the San Bernardino mountain resort area.

Applicant now operates approximately 67 pieces of equipment of various kinds, and maintains terminals at Los Angeles, Lancaster, and Bakersfield. It employs 46 persons.

Seventeen "bobtail" and three larger trucks are now used to perform pick-up and delivery service in the Los Angeles area. This equipment would be utilized in performing such service for shipments to and from the said mountain area. It is proposed to establish and maintain a terminal at Running Springs, situated at the junction of City Creek Road and State Highway No. 12 approximately midway between the western and eastern limits of the mountain service area. One pick-up truck, two tractors and one 21-foot trailer would be stationed at Running Springs. The line-haul equipment to be operated between Los Angeles and the mountain area would usually consist of one tractor and two 21-foot trailers, or one tractor and one 35-foot trailer. A daily pick-up with overnight delivery service in both territories is proposed.

Financial statements offered in evidence (Exhibit No. 5) show that, as of December 31, 1950, applicant had assets of \$96,935.99, and liabilities of \$87,949.20. Its net worth was \$8,986.79, represented by authorized capital of \$45,000 and deficit of \$36,013.21. Net profit for 1950 was \$2,924.59.

At present the highway common carrier service between the Los Angeles and San Bernardino mountain territory is an inter-line operation performed mainly by protestants Pacific Freight Lines, Southern California Freight Lines, and Santa Fe Transportation Company, between Los Angeles and San Bernardino, and by Mountain Auto Line between San Bernardino and said mountain area. This service is performed six days per week. In addition the Pacific Electric Railway Company regularly transports small parcels of 50 pounds or less on its passenger stages between Los Angeles and San Bernardino, which shipments are transferred to Mountain Auto Line's passenger stages at the Pacific Electric Railway depot. Said carriers operate many schedules between Los Angeles and San Bernardino. Shipments destined to points in the mountain area are delivered to the Mountain Auto Line's dock at San Bernardino between 6:00 a.m. and 7:30 a.m. Mountain Auto Line's trucks leave San Bernardino at 8:00 a.m., and most shipments are delivered the same morning.

Mountain Auto Line operates nine trucks and nine buses between San Bernardino and the mountain area proposed to be served by applicant. In summer three trucks leave San Bernardino at 8:00 a.m., destined to different sections of the said area. In addition, there is one mail truck that serves approximately thirteen post offices in the area. This truck also carries freight. When necessary, extra schedules are operated. In winter one regular truck and the mail truck are operated six days per week. The mail truck then carries more freight and less mail. In addition, applicant has standby equipment available. One pick-up and delivery truck is in daily use in San Bernardino. Mountain Auto Line does not own or operate tractor or semitrailer equipment. It operates

trucks of 1½- and 2½-ton capacity, some of which have been rebuilt to carry as much as six tons. It operates terminals at San Bernardino, Big Bear Lake and Lake Arrowhead, and maintains an agency at Crestline. Between fifteen and twenty persons are employed during the summer season, and about ten persons during the winter.

It is not deemed necessary to review in detail the services provided by the above-named protestant highway common carriers which operate between the Los Angeles Territory and San Bernardino. The record shows that they transport general commodities, make daily pickups and deliveries in both the Los Angeles Territory and San Bernardino, and operate numerous schedules daily between said points.

The record also clearly shows that Mountain Auto Line performs a daily highway common carrier and passenger stage service between San Bernardino and the San Bernardino mountain area, operating regular schedules during the summer and winter seasons. A following-day delivery is now available to the mountain area shippers or consignees through the use of present interline service operated by the protesting carriers. Although several of applicant's shipper witnesses testified that some deliveries were as late as two and three days, consideration of the testimony of all the public witnesses justifies a finding that following-morning and afternoon delivery is the rule rather than the exception.

Applicant called approximately forty witnesses to testify in its behalf. Although all of said witnesses stated that they would use the proposed service, a careful review of their testimony does not show that there is such a substantial need for the proposed service, over and above the transportation service that

is now available, as to justify the granting of this application. The testimony pertaining to less-truck-load shipments does not show that more carriers are needed to handle the volume of tonnage available. Substantial evidence is lacking that enough of the heavier or truck-load shipments would be available for a regularly scheduled operation on a year-round basis. The evidence shows that the need for such service is quite limited and occurs usually at the beginning of the summer season. There was evidence to indicate that proprietary and permitted carriers are now providing this service.

The bulk of the shipments to the said resort area average not more than 200 pounds. As to these shipments, the testimony was that a following-day, preferably morning, delivery was needed. After considering the evidence of both the applicant's and protestants' witnesses, we find that such a service is now available. Most of the witnesses testified that they can anticipate their business needs and place orders in time to avoid the necessity for rush orders. The number of rush orders is comparatively small. Furthermore, the San Bernardino mountain resort area, through the medium of protestants Mountain Auto Line's and Pacific Electric Railway Company's passenger bus service, is now receiving express-type transportation on small shipments up to 50 pounds. The testimony concerning slow deliveries does not show the service to be inadequate for that reason.

Mountain Auto Line is owned and operated by Mr. and Mrs. Max Green. Mr. Green began operating a transportation service by automobile into the San Bernardino mountains in 1913. In 1920 he sold the business to Motor Transit Company, and was then employed

by the latter company until 1937, when the business was repurchased by him. Since 1937 the Greens, doing business as Mountain Auto Line, have continuously operated a highway common carrier and passenger stage service between San Bernardino and the mountain area in the vicinity of Crestline, Lake Arrowhead, and Big Bear Lake.

As of December 31, 1950, Mountain Auto Line had assets of \$37,404.90 and liabilities of \$1,402.71. Its net worth was \$36,002.19, represented by capital investment of \$42,933.52 and deficit of \$6,931.33. Operating losses for the year 1950 were \$8,465.31, of which amount \$6,094.02 was attributable to its passenger stage operation, and \$2,371.29 to its trucking business.

Protestant Mountain Auto Line presented evidence (Exhibit No. 17) showing that in the year 1950 it transported a total of 6,642 shipments to or from the mountain area, which were interchanged with the Los Angeles carriers. These shipments weighed a total of 1,192,413 pounds. The revenue it received for such service was \$10,583.64. The average weight of such shipments was approximately 180 pounds, and the average revenue received on each shipment was approximately \$1.60. The daily average number of such shipments was 21 of the total weight of 3,884 pounds.

Another exhibit (No. 18) gave similar data for five representative days in the peak summer period. The averages per day for said five days were 28 shipments weighing 5,090 pounds.

(4) The days chosen were Monday, July 31, Tuesday, August 8, Wednesday, August 16, Thursday, August 24, and Friday, September 1, 1950.

This evidence clearly indicates that a diversion of this traffic from the protestant Mountain Auto Line would endanger its operation and that applicant would not secure enough business to insure its success. Protestants offered evidence (Exhibits Nos. 19 - 20) showing that, if applicant were to receive and transport all of the freight interchanged between Mountain Auto Line and connecting carriers in 1950, applicant would, upon that business alone, fail to return its line-haul cost.

Applicant contends that there is sufficient transportation business available in the San Bernardino mountain area to support the operation of an additional highway common carrier service as proposed herein, and that such business would come principally from proprietary carriers or from shippers using "permitted carriers." The record is not convincing that applicant would receive an appreciable tonnage from such carriers, nor does the record contain any evidence of tonnage transported by proprietary and "permitted carriers." There is no basis for an assumption that applicant could take business from "permitted carriers." The testimony of representatives of proprietary carriers was not convincing that applicant would receive a substantial volume of business from such sources. Several of said witnesses stated that their companies would continue to transport their own merchandise, but would use applicant's service to some extent.

Applicant also supports its position on the grounds that the mountain area has had considerable growth since the termination of the last war. This is conceded, but the record shows business conditions during the past two years have not kept pace with general conditions elsewhere. This is due to a prolonged summer and winter

drought which has adversely affected the entire resort area, particularly the communities and resorts in the vicinity of Big Bear Lake. We cannot find upon the evidence of record that the increase in population and business have surpassed the capacity of the present carriers to adequately meet the public shipping requirements.

Applicant asserts that its rate proposal would benefit the shipping public by making lower rates available, protestants' present charges being based upon a combination of the local rates. However, it is significant that the protesting carrier now performing the service in the mountain area is not operating profitably, with the benefit of the higher rates. We believe that protestants should explore the possibilities of increasing their traffic by the establishment of through joint rates.

Twenty-one shipper witnesses testified in behalf of protestants. Many of these witnesses have been in business in the mountain resort area for many years and have been using the Mountain Auto Line and connecting carrier service. Their testimony was that the present service is adequate and satisfactory, and that they are receiving following day, usually following-morning, deliveries.

We have carefully considered the evidence of record and we cannot find that public convenience and necessity require the establishment and operation of an additional highway common carrier service. The transportation needs are limited, characteristic to resort areas, and seasonal in character. The protesting carriers have for many years been serving the territory, and, as the record shows, the service has been adequate and on the whole satisfactory.

There has been no clear and convincing showing that the business which is available would adequately compensate two competing transportation services. The application will be denied.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises and being unable to find that public convenience and necessity require the establishment and operation of a highway common carrier service as herein proposed,

IT IS ORDERED that the application of Desert Express, a corporation, being Application No. 31900, be, and it hereby is, denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26th day of June, 1951.

A. J. Johnson
Justus J. Craven
Harold Hule
Francis H. Dutton
John L. Ketchum
COMMISSIONERS