

ORIGINAL

Decision No. 45915

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 DESERT EXPRESS, for a certificate of )  
 public convenience and necessity to )  
 operate as a highway common carrier )  
 of commodities generally between ) Application No. 32053  
 presently authorized points and )  
 Lake Hughes, Valyermo, Argus, Cali- )  
 fornia Institute for Women, and )  
 intermediate and off-route points. )

Glanz & Russell, by Theodore W. Russell, for applicant.  
Lloyd R. Guerra, for Western Truck Lines, Ltd.,  
 interested party.

O P I N I O N

Applicant herein is presently engaged in business as a highway common carrier pursuant to a certificate of public convenience and necessity issued by this Commission. Authority (1) is requested herein to extend these operations as a highway common carrier into eight territories which applicant has designated as follows:

1. Lake Hughes Extension, comprising territory between Lancaster and Lake Hughes;
2. Valyermo Extension, comprising territory between Palmdale and Valyermo;
3. An extension to the California Institute for Women, near Tehachapi;
4. Argus Extension, comprising territory in the vicinity of Westend, Argus, Inyokern, Ridgecrest, China Lake, and between these points and Red Rock, Randsburg and Johannesburg, including other designated points in the area;

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(1) Decision No. 41149, dated January 19, 1948, on Application No. 28951.

5. Los Angeles Territory Extension, whereby applicant proposes to extend its pickup and delivery area to include additional territory in the vicinity of Los Angeles;

6. Alternate Route Extensions, whereby applicant proposes certain alternate routes for operating convenience only between Bakersfield and Freeman Junction, and between Bodfish via State Highway No. 178 to its intersection with U. S. Highway No. 466;

7. Mojave Extension, whereby applicant proposes to extend service between Mojave and the area in and around Muroc;

8. Beechers-Atolia Extension, whereby applicant proposes to extend service to the area comprising Atolia, Kramer and Boron.

All of these extensions are proposed over designated routes which are set out in the application, and they are intended to be made a part of applicant's existing service.

The application further requests authority to transport, over the routes and between the points specified, general commodities except petroleum and petroleum products in bulk and in tank trucks, and except livestock.

An amendment to the original application proposed an additional extension known as the Bakersfield-Barstow-Victorville Extension, whereby applicant proposes service between Bakersfield, on the one hand, and, on the other hand, Barstow, Daggett, Hodge, Helendale, Oro Grande, Victorville, George Air Force Base, Marine Corps Bases near Barstow and Yermo, Adelanto and Wilsona via specified routes.

Public hearings were held before Examiner Syphers at Los Angeles on May 7, 1951, and at Bakersfield on June 8, 1951. On these dates evidence was adduced and on the last-named date the matter was submitted, subject to permission granted to applicant to submit a late-filed exhibit. This exhibit was received on June 18, and the matter is now ready for decision.

At the hearings applicant had no opposition whatsoever. Testimony was introduced to show applicant's present operations (Exhibit No. 1), a balance sheet, as of December 31, 1950, an operating statement for the year 1950 (Exhibit No. 2), an equipment list (Exhibit No. 3), and a map of the proposed operations (Exhibit No. 4). In addition, a financial statement for the first quarter of 1951 was submitted as Exhibit No. 5.

The president of applicant corporation testified as to the proposed plan of operation and the equipment and rates proposed to be used. He also pointed out the terminal facilities of applicant.

Numerous public witnesses appeared in support of the application, and in every case testified that their particular companies have a need for the proposed service. Nearly all of these witnesses stated that, under present conditions, it was very difficult to make shipments to the proposed areas, it being necessary in many cases to ship from Bakersfield to Los Angeles and then back to the areas in question. Such a procedure is time-consuming, taking from two to five days. Many witnesses testified that in their business it was desirable and necessary to have alternate service. Other public witnesses testified

that their companies were not now shipping into the areas due to lack of transportation, and that they would do so were it possible to receive adequate transportation. Most of the public witnesses stated there was no available transportation in the area at the present time.

Exhibit No. 6 is a resolution by the Board of Supervisors of Kern County supporting the proposed service and stating there is not adequate transportation. Exhibit No. 7 is a statement by the Industrial Committee of Kern County Chamber of Commerce, in support of the application, while Exhibit No. 8 is a statement by the Secretary of Kern, Inyo and Mono Counties of California Building and Construction Trades Council, likewise in support of the application.

After a careful consideration of all of the evidence presented in this matter, we are of the opinion, and hereby find, that public convenience and necessity require the proposed service.

Desert Express is hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Application as above entitled having been filed, public hearings having been held thereon, the matters having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of general commodities, except petroleum and petroleum products in bulk and in tank trucks, and except livestock, be, and it hereby is, granted to Desert Express, a corporation, upon and along the following-described routes, including, unless otherwise specified, all intermediate points and all off-route points within a radius of three miles on either side of the routes hereinafter described:

- a. Lake Hughes Extension: Between Lancaster, California, and Lake Hughes, via State Highway No. 138 to its intersection with County Road, approximately five miles west of Lancaster, thence over unnumbered County Highway via Lake Elizabeth to Lake Hughes.
- b. Valyermo Extension: Between Palmdale and Valyermo via U. S. Highway No. 138, to its intersection with County Highway approximately five miles east of Little Rock, thence southerly via County Highway to Valyermo.
- c. California Institute for Women Extension: Between the junction of U. S. Highway No. 466 and unnumbered County Highway to the California Institute for Women, via U. S. Highway No. 466 to a point approximately two miles west of Tehachapi, thence via County Highway to the California Institute for Women.

- d. Argus Extension: Between Red Rock, Randsburg and Johannesburg, on the one hand, and Argus, on the other hand, from the junction of U. S. Highway No. 395 and unnumbered County Highway near Johannesburg, via unnumbered County Highway to Argus;

Between Johannesburg and Inyokern, via U. S. Highway No. 395, thence via unnumbered County Highway through Ridgecrest to Argus;

Also, between junction of U. S. Highway No. 6 and County Road near Red Rock via U. S. Highway No. 6 to junction with County Highway approximately three miles west of Inyokern, thence via County Highway to Inyokern, and thence via unnumbered County Highway through Ridgecrest to Argus.

- e. Mojave Extension: Between Mojave, California, and the junction of an unnumbered highway approximately five miles north of Muroc, via U. S. Highway No. 466, and thence via the unnumbered County Highway to Muroc.

- f. Beechers-Atolia Extension: Between Kramer and Atolia via U. S. Highway No. 466 and U. S. Highway No. 395.

- g. Bakersfield-Barstow-Victorville Extension: Between Kramer and Victorville via U. S. Highways Nos. 466 and 91 to Yermo, thence via unnumbered County Highway to Daggett, thence via U. S. Highway No. 66 to Victorville;

Also, between the intersection of U. S. Highway No. 66 with unnumbered County Highway north of Victorville and Palmdale, via U. S. Highway No. 66 to U. S. Highway No. 395, thence over unnumbered County Highway via Wilsons to the intersection of that highway with State Highway No. 138, thence via State Highway No. 138 to Palmdale.

- h. Los Angeles Territory Extension: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101 Alternate; thence northeasterly along Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to

State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U. S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101 Alternate; thence northerly along an imaginary line to point of beginning.

1. Alternate Route Extensions: State Highway No. 178 between Bakersfield and the junction with U. S. Highway No. 6;

Also, between Bodfish and a point on U. S. Highway No. 466 five miles east of Bena via U. S. Highway No. 466.

(2) That, in providing service pursuant to the authority granted herein, there shall be compliance with the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicant shall establish the service herein authorized and 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 schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 3<sup>rd</sup> day of July, 1951.

R. J. [Signature]  
Justus J. Casper  
Harold P. Kuls  
W. [Signature]  
Robert L. [Signature]  
COMMISSIONERS