

ORIGINAL

Decision No. 46408

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of VICTORVILLE-BARSTOW TRUCK LINE,)
a California corporation, for a)
certificate of public convenience) Application No. 32233
and necessity authorizing the)
extension of its highway common)
carrier services.)

Glanz and Russell, by Arthur H. Glanz, for applicant.
Robert W. Walker and Mathew H. Witteman, by Mathew H. Witteman,
for The Atchison, Topeka & Santa Fe Railway and Santa Fe Trans-
portation Company, protestants. Millard L. Davis, for Broom-
crist and Wiedeman, protestants. (Protest withdrawn on filing
of stipulation).

O P I N I O N

Victorville-Barstow Truck Line, a corporation, appli-
cant herein, holds authority from this Commission to render
service as a highway common carrier between Los Angeles, Colton
and San Bernardino, on the one hand, and Verdemon, Yermo,
Lucerne Valley and Bicycle Lake and intermediate points, on
the other hand, and points located laterally within nine miles
on each side of U. S. Highway 66 between Miller's Corner and
Helendale, and on California Highway 18 between Victorville
(1)
and Lucerne Valley .

(1) Decision No. 34651, dated October 7, 1941, on Application
No. 24143. The authority therein granted to L. L. Mockenhaupt,
doing business as Victorville-Barstow Truck Line, was there-
after transferred to Victorville-Barstow Truck Line, a corpora-
tion, applicant herein, by authority of Decision No. 44083,
dated April 25, 1950, on Application No. 31287.

By the application herein a certificate of public convenience and necessity is sought authorizing the applicant, as a highway common carrier, to transport "property"⁽²⁾ as follows:

1. To provide local service on its present routes and within the area generally between Verdemon on the south, and Lucerne Valley, Yermo and Bicycle Lake on the east and north of its present operations so that shipments may be handled between any two points on its routes or within its off-route areas generally north and east of Verdemon, including Verdemon.

2. To extend its nine-mile lateral off-route authority on either side of its present routes (and within nine miles of the termini mentioned herein), between Helendale (the point where the nine-mile off-route authority presently ends) and Yermo, between Barstow and Bicycle Lake, within nine miles of Lucerne Valley, and within nine miles of Miller's Corner.

3. To provide service between San Bernardino and Colton on the one hand, and Boron, Kramer, Muroc, Mojave, Rosamond, Lancaster, Palmdale, Pear, Littlerock, Pearblossom, Llano, Phelan, Mountain Top Junction, Redman, Wilsona and Barstow, via any or any combination of the following-described routes, serving all intermediate points on said routes, and all points within a radius of three miles of any of said routes, to wit:

- (a) Via U. S. Highway 395 from Colton and San Bernardino to Kramer Junction, thence via U. S. Highway 466 to Mojave, thence via U. S. Highway 6 to Palmdale, thence via California Highway 138 to Cajon Junction, and in the opposite direction.

(2) See Decision No. 34651, supra, for authorization to transport "property". Applicant requests the same authority in any certificate or extension granted by the Commission pursuant to the application herein.

- (b) Via U. S. Highway 466 from Barstow to Kramer Junction.
- (c) Via an unnamed and unnumbered county road from U. S. Highway 466 (directly north of Muroc) extending in a generally southerly direction to California Highway 138.
- (d) Via unnamed and unnumbered county road from U. S. Highway 66 near Oro Grande, to junction with California Highway 138 near Pear, passing through Adelanto and Wilsona.
- (e) Via unnamed unidentifiable county road from U. S. Highway 466 to Boron.

4. To provide service between George Air Force Base near Adelanto, and Edwards Air Force Base near Muroc, making use of U. S. Highways 395 and 466, and the unnumbered and unnamed highway extending southerly from U. S. Highway 466 to Muroc.

Applicant's proposed schedule is set out in its application as follows:

- (a) With respect to applicant's local service proposal, the schedule presently maintained to and from points on its regular routes will be observed (overnight service every night except Sunday night). Local service to or from off-route points will be on-call.
- (b) Applicant's off-route service will be on-call except to the extent that the enlarged off-route area will be served in conjunction with present schedules.
- (c) With respect to the San Bernardino-Colton desert area service to and from Boron, Kramer, Muroc and other points named in the desert area, applicant proposes service twice weekly, with departures at approximately 7:00 P.M. on Sunday and Wednesday nights and delivery on Mondays and Thursdays. In addition, extra service will be provided as traffic demands and justifies.
- (d) On-call service between the George Air Force Base (near Adelanto) and the Edwards Air Force Base (near Muroc).

Charges for the proposed service are to be at the rates set forth in Southwestern Motor Tariff Bureau, Local and Proportional Freight Tariff No. 18-A, California P.U.C. No. 10 of Agent J. L. Beeler.

Hearings were held in San Bernardino on June 14 and July 23, 1951, and in Victorville on June 15, 1951, and the applicant rested. Appearances were made on behalf of protestants The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company and the matter was continued to enable these parties to produce evidence in support of their protests. By letter dated August 23, 1951, counsel for these protestants advised the Commission that the two named protestants did not desire further hearings and would submit their protests on the record theretofore made. The record contains nothing in support of their protests. Broomcrist and Wiedeman, a highway common carrier, appeared in protest to the application but thereafter that carrier and the applicant entered into a stipulation, Exhibit No. 3 herein, whereby (1) applicant amended its application as follows:

- (a) To eliminate therefrom any proposal of service to or from any points which lie along U. S. Highway 395 between Beechers Corner (Kramer Junction), on the north, and the point where U. S. Highway 395 intersects a line describing a nine-mile radius laterally from U. S. Highway 66 on the south, with the proviso that, by such amendment, the applicant will not eliminate from the application its proposal to traverse said segments of U. S. Highway 395 in connection with other services;
- (b) To eliminate therefrom any request to provide service to or from Kramer or any point within a radius of three miles of Kramer;

- (c) To eliminate therefrom any proposal of service to or from Newberry (11-1/2 miles east of Daggett on U. S. Highway 66), or any point within a three-mile radius of Newberry excepting only any points lying within said area which may be presently served under existing certificates;

and, (2) Broomcrist and Wiedeman withdrew its protest to the application. Hearings having been held as aforesaid, protestant Broomcrist and Wiedeman having withdrawn its protest, and the applicant and the protestants The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company having submitted the matter on the record made at the hearings, it is now ready for decision.

In 1932 A. L. Mockenhaupt and Louis L. Mockenhaupt were given authority to operate an automotive freight line for the transportation of property between Los Angeles, Colton and San Bernardino, on the one hand, and between San Bernardino (but excluding San Bernardino) and Yermo, on the other hand⁽³⁾. In 1935 A. L. Mockenhaupt was killed in an accident, and thereafter Louis L. Mockenhaupt acquired the deceased's interest in the truck line and was given extended authority to operate into Bicycle Lake and Lucerne Valley, with lateral rights to serve within nine miles on either side of U. S. Highway 66 between Miller's Corner and Helendale, and within nine miles on either side of California Highway 18 between Victorville and Lucerne Valley⁽⁴⁾. Thereafter the present corporation

(3) Decision No. 25545, dated January 16, 1933, on Application No. 18422.

(4) Decision No. 34651, supra.

was formed and Louis L. Mockenhaupt's interest was transferred to the corporation in exchange for shares of stock therein (5).

Louis L. Mockenhaupt has been in control of the business of Victorville-Barstow Truck Line as a partner, sole owner and president of the corporation since 1932.

At the time of the hearing applicant had terminals in Los Angeles, San Bernardino, Victorville and Barstow. The applicant's Los Angeles, San Bernardino and Victorville terminals have been maintained at their present locations for about twelve years and the terminal in Barstow for six years. At each terminal applicant maintains an agent, three to four city pickup and delivery trucks, and three thirty-five-foot vans. At the time of the hearing applicant had eleven pickup and delivery trucks, twelve tractors and twelve semitrailers and could secure additional equipment, if needed, from the B. & L. Truck and Transfer Company, a contract carrier, of which applicant's president is the owner.

As of December 31, 1950, applicant had assets of \$76,153.13, compared with current liabilities of \$11,844.87, and equipment and long-term obligations of \$5,762.57. During the year 1950, applicant had revenue amounting to \$180,957.79, and a total expense of \$170,412.10 before income tax.

Upon the evidence of record the Commission is of the opinion and finds that the applicant has sufficient resources, experience and facilities to enable it to perform the services for which it now seeks (1) a new certificate of public convenience and necessity, and (2) an enlargement of its existing authority.

(5) Decision No. 44083, supra.

For a clear picture of the problems involved, a brief outline of (1) the territory involved, the rights now held and the rights sought by applicant, and (2) the territories served by other carriers in the field, is necessary.

1. The territory involved by one portion of the application (territory not presently served) commences at Colton and San Bernardino on the south. From and to these points applicant has requested authority to transport property to any and all places located on a rough parallelogram bounded by California Highway 138 on the south between Cajon Junction and Palmdale; by U. S. Highway 6 on the west between Palmdale and Mojave; by U. S. Highway 466 on the north between Mojave and Kramer Junction; and by U. S. Highway 395 on the east between Kramer Junction and Cajon Junction. Also requested in this portion of the application is authority to transport property over and along two county roads contained inside this area: namely, a road running south from U. S. Highway 466 through Muroc to California Highway 138 near Littlerock; and a road running east from U. S. Highway 138 near Pear, and passing through Wilsona to U. S. Highway 395 near Adelanto. Authority is also requested to serve along U. S. Highway 466 between Kramer Junction and Barstow, to serve any point within three miles on either side of the routes specified, to serve all intermediate points along the routes mentioned, and to serve between George Air Force Base (near Adelanto) and Edwards Air Force Base (near Muroc).

In the territory involved in the second part of the application, applicant now has authority to serve between San Bernardino, Colton and Los Angeles, on the one hand, and Verdemon, Victorville, Barstow, Bicycle Lake, Daggett, Yermo, Lucerne Valley and intermediate points, on the other hand, with authority also to serve within nine miles on either side of California Highway 18 between Victorville and Lucerne Valley and within nine miles on either side of U. S. Highway 66 between Miller's Corner (about nine miles south of Victorville) and Helendale (about 15 miles north of Victorville)⁽⁶⁾. Applicant seeks an enlargement of these described rights, which enlargement, in addition to its present rights, will permit applicant to serve as follows: within three miles on either side of U. S. Highways 66 and 395 between Verdemon and Cajon Junction; within nine miles on either side of U. S. Highway 66 between Helendale and Barstow; within nine miles on either side of the unnamed and unnumbered county road between Barstow and Bicycle Lake; within a radius of nine miles of Bicycle Lake, Yermo, Daggett, Lucerne Valley and Miller's Corner; and locally between any two or more points in the described area north of Verdemon.

2. In addition to the presently authorized services of the applicant in a portion of the territory involved, as above described, the protestant The Atchison, Topeka & Santa Fe Railway Company conducts rail service between San Bernardino and Barstow and between Barstow and Mojave. The record does

(6) See Decision No. 34651 and Decision No. 44083, both referred to supra.

not show the frequency of the service but several witnesses testified that no pickup and delivery service is provided, and one witness testified that it required two weeks to ship via this service from Victorville to Mojave. The consensus of the testimony of shipper witnesses is that service by this rail line between the points it serves, which are involved herein, is too slow to meet their needs.

In addition to the railroad service heretofore mentioned, two highway common carriers, Broomerist and Wiedeman, a partnership, and Desert Express, a corporation, now serve portions of the area involved.

(a) Broomerist and Wiedeman hold authority from this Commission to serve between San Bernardino, Colton, Riverside, Fontana, Kaiser and Rialto, on the one hand, and, among others, Kramer Junction at the intersection of U. S. Highways 395 and 466, and Daggett and Newberry on U. S. Highway 66 east of Barstow. These partners originally entered a protest to the application herein, but subsequently withdrew their protest, without any explanation of the services performed by them in the area involved, upon the filing of the stipulation heretofore mentioned (Exhibit No. 3) by applicant and the partners through their respective counsel.

(b) Desert Express, a corporation, entered no appearance, but the Commission will take judicial notice that Desert Express has a certificate to serve between Los Angeles on the one hand, and Lancaster and Kramer and intermediate points, along U. S. Highways 6 and 466⁽⁷⁾.

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

Twelve public witnesses testified at the hearing held in San Bernardino. The manager of the San Bernardino Chamber of Commerce testified that the population of San Bernardino County had grown from 133,900 in 1930 to 280,252 in 1950 and that, in the same period, the population of the city of San Bernardino had grown from 37,000 to 80,000. There are, he said, 150 wholesale organizations in San Bernardino and its environs, and the whole area involved in the instant application is served by San Bernardino distributors. He knew of no highway common carrier serving from San Bernardino to the territory west of Highway 395. The San Bernardino agent for the Pacific Freight Lines testified that he frequently receives requests from shippers to serve the territory involved west of U. S. Highway 66 (the highway from San Bernardino to Barstow), and for service to off-route points as proposed by the applicant. Pacific Freight Lines, he stated, desires a carrier with the requested authority, with which it can interchange freight. Several San Bernardino shipper witnesses testified they ship to one or to two of the points involved, west of U. S. Highway 395, or all of the points involved, or that they could and would serve the area if transportation were available. Some use their own equipment but would give all or part of their shipping in the area to applicant, if the requested authority is to be granted. Others shipping into the area at present ship into Los Angeles and from Los Angeles into the area. This, they said, takes time and doubles the transportation charges, which, in turn, makes it difficult if not impossible for these shippers to compete with the Los Angeles suppliers. Still others would like to serve the area

but do not because of lack of transportation. All of the witnesses wanted the proposed service established and would use it to varying degrees if it were authorized.

The applicant's manager in San Bernardino testified that the Army Air Force had requested service between Edwards Air Force Base (near Muroc) and the George Air Force Base (near Adelanto) and has a large tonnage for hauling between these bases. No appearance was made by the Air Force because of regulations.

In Victorville several shippers testified in support of the application. These shippers collectively desired local services to the whole area, as requested in the application. None of the witnesses knew of any local service by highway common carriers and either use their own equipment to effect deliveries or use contract carriers.

While the volume of possible business represented by the witnesses is not heavy and not sufficient in itself to support such an operation as proposed, the applicant is presently performing service in a portion of the area, applicant's present equipment will be used, and no initial cost is involved except for minor items. Upon the record herein the Commission is of the opinion and finds that public convenience and necessity require that applicant be given the authority it has requested by the application herein.

O R D E R

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

IT IS HEREBY ORDERED:

I.

1. That a certificate of public convenience and necessity be, and it hereby is, granted to Victorville-Barstow Truck Line, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property:

(a) between Colton and San Bernardino, on the one hand, and Boron, Muroc, Mojave, Rosamond, Lancaster, Palmdale, Pear, Littlerock, Pearblossom, Llano, Phelan, Mountain Top Junction, Redman, Wilsona and Barstow, and intermediate points, on the other hand;

(b) between George Air Force Base (near Adelanto), on the one hand, and Edwards Air Force Base (near Muroc), on the other hand;

(c) between Colton and San Bernardino, on the one hand, and (1) points located laterally within three miles on each side of U. S. Highway 466 between Mojave and the junction of U. S. Highway 466 and U. S. Highway 66, (2) points located laterally within three miles on each side of U. S. Highway 6 between Mojave and Palmdale, (3) points located laterally

within three miles on each side of the unnamed and unmarked county road from U. S. Highway 466 to California Highway 138 and passing through Muroc and Redman, (4) points located laterally within three miles on each side of California Highway 138 and between Palmdale and junction of California Highway 138 and U. S. Highways 66 and 395, (5) points located laterally within three miles on each side of the unnamed and unnumbered county road which runs east and west through Wilsona between U. S. Highway 395 and California Highway 138, and (6) points located laterally within three miles on each side of U. S. Highway 395 between Kramer Junction and Verdemon.

Said certificate is granted subject to the following conditions:

(a) Applicant shall render no service to or from any points which lie along U. S. Highway 395 between Kramer Junction (Beecher's Corner), on the north, and the point where U. S. Highway 395 intersects a line describing a nine-mile radius laterally from U. S. Highway No. 66 on the south.

(b) Applicant shall render no service to or from Kramer or any point within a radius of three miles of Kramer.

2. That, in providing service pursuant to the certificate herein granted, 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.

(c) Subject to the authority of this Commission to change or modify the operation herein authorized at any time, applicant shall conduct said highway common carrier operations over and along the following-described routes in either direction, with lateral departures as specified in paragraph I, 1 (c) of the order herein:

(1) U. S. Highway 395 between Colton and San Bernardino to Kramer Junction, U. S. Highway 466 between Kramer Junction and Mojave, U. S. Highway 6 between Mojave and Palmdale, California Highway 138 between Palmdale and Cajon Junction;

(2) U. S. Highway 466 between Barstow and Kramer Junction;

(3) An unnamed and unnumbered county road from U. S. Highway 466 (directly north of Muroc) extending in a generally southerly direction to California Highway 138;

(4) An unnamed and unnumbered county road from U. S. Highway 66 near Oro Grande, to junction with California Highway 138 near Pear and passing through Adelanto and Wilsona;

(5) An unnamed and unnumbered county road between its junction with U. S. Highway 466 to Boron.

II.

IT IS FURTHER ORDERED that the in lieu certificate of public convenience and necessity granted to Louis L. Mockenhaupt by the second ordering paragraph of the order of Decision No. 34651, dated October 7, 1941, on Application No. 24143, which certificate was subsequently transferred to applicant herein pursuant to paragraph 1 of the order of Decision No. 44083, dated April 25, 1950, on Application No. 31287, be, and the same hereby is, amended so that the portion following the figure (2) reads as follows:

(2) Between Los Angeles, Colton and San Bernardino, on the one hand, and (a) points located laterally within nine miles on each side of U. S. Highway 66 between Miller's Corner and Daggett; California Highway 18 between Victorville and Lucerne Valley; U. S. Highway 91 between its junction with U. S. Highway 466 and Yermo; unnamed and unnumbered county road between Barstow and Bicycle Lake; (b) points located within a radius of nine miles of Miller's Corner, Lucerne Valley, Daggett, Yermo and Bicycle Lake; and (c) between any two or more of the points specified, excluding Los Angeles, Colton and San Bernardino.

The following condition is added to the conditions contained in said certificate:

Applicant shall render no service to or from Newberry, or any point within a three-mile radius of Newberry, except only points lying within said area which may be presently served under existing certificates.

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

Dated at San Francisco, California, this 13th day of November, 1951.

R. J. [Signature]
President
Harold P. [Signature]
Samuel H. [Signature]
J. L. [Signature]
Commissioners