

ORIGINAL

Decision No. 47635

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
THOMAS W. GILBOY, THOMAS E. GILBOY, )  
PATRICIA GILBOY SHORTALL and EDWARD )  
HUNTER, co-partners, doing business ) Application No. 33492  
as GILBOY COMPANY OF LOS ANGELES, )  
for authority to extend operations.)

Gwyn H. Baker, for applicant. Arlo D. Poe, for  
Film Transport Co. of California and for Bliss  
Film Delivery, protestants; and Turcotte &  
Goldsmith, by Frank W. Turcotte, for C. N.  
Herrington, protestant.

O P I N I O N

Applicant, Gilboy Company of Los Angeles, a copartnership, is a highway common carrier of films and related supplies and accessories in the Los Angeles area (Decision No. 46971). Its operating rights, insofar as they are pertinent to this application, extend to the eastern limits of the City of Los Angeles, particularly along Atlantic Boulevard, Telegraph Road and Kern Avenue, in the vicinity of a community known as East Los Angeles which is located in county territory easterly of the Los Angeles city limits, and between Third Street on the north and Telegraph Road on the south.

By this application authority is requested for an extension of operating rights between East Los Angeles and Whittier, along Whittier Boulevard, a distance of approximately eight miles, serving also a lateral area two miles on either side of said boulevard.

A public hearing was held in Los Angeles before Examiner Chiesa.

The evidence shows that there are seven theaters situated along Whittier Boulevard, the proposed route, one off-route theater, and three theaters in the City of Whittier. All of these theaters are now served by protestant C. N. Herrington, a certificated highway common carrier of films and film supplies and accessories (Decision No. 38807, 46 C.R.C. 413<sup>(1)</sup>).

Protestant Film Transport Co. of California has authority to serve "all points within three miles on either side of U. S. Highway 101 in and between Whittier and El Toro." This carrier has other operating rights not pertinent to this matter (Decision No. 43160). It transports the same commodities proposed to be transported by applicant. It does not now serve in Whittier because the theaters in said city are served by Herrington. However, one of the partners testified that his company stands ready, able and willing to provide whatever service is needed by theater operators in the City of Whittier. Several of applicants' witnesses testified that they use this carrier to serve theaters situated elsewhere and that the service is satisfactory.

Protestant Bliss Film Delivery does not have operating authority along Whittier Boulevard or in the City of Whittier.

Applicant called four public witnesses to testify in support of its request. One, the manager of one of the theaters now served by Herrington, testified that the latter's service is not satisfactory. The other three witnesses did not have first hand knowledge of protestant Herrington's service but their testimony indicated that on occasion the present service had not been satisfactory, particularly when special or emergency shipments

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(1) Herrington's certificate is for "the transportation of motion picture films, theater supplies and accessories between Los Angeles and Whittier and intermediate points, including East Los Angeles and Montebello" via Whittier Boulevard. No lateral rights were granted.

were requested.

Such was the evidence presented to show a need for applicants' proposed service.

The manager of one theater situated on Whittier Boulevard and the owner and operator of the three theaters in the City of Whittier testified that they have been using Herrington's service many years and that the service is "very" or "wholly" satisfactory.

C. N. Herrington testified that his entire highway common carrier operation consists of serving the ten theaters along the route proposed to be served by applicant and one off-route theater, that his total gross revenue is approximately \$74 per week, that he maintains a 24-hour free toll telephone service for his customers, that he very seldom receives requests for special services which he cannot perform, and that his regular schedule is maintained to meet the needs of all the theaters he is authorized to serve.

Having considered the entire record, this Commission is unable to find that public convenience and necessity require the establishment and operation by applicant of an additional highway common carrier service. There is no substantial evidence that there is a public need for more service nor that the present theater operators are not receiving a reasonably adequate service. There are two carriers now authorized to serve the City of Whittier. Applicants' only source of business would be protestant Herrington's present customers. A partial loss of this business would seriously affect the latter's operation. The application will be denied.

O R D E R

A public hearing having been held, 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 Application No. 33492 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 August, 1952.

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President  
Justin D. Crooked  
Harold Hills  
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Samuel Patten  
John L. W. Hill  
Commissioners

R. E. Mittelstaedt  
Commissioner....., being  
necessarily absent, did not participate  
in the disposition of this proceeding.