

Decision No. 51300**ORIGINAL**

## 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: )

(a) between certain presently )  
 authorized points in the general )  
 vicinity of Palmdale, Lancaster, )  
 Mojave, Ridgecrest, Barstow and )  
 Victorville, on the one hand, and the )  
 San Francisco-Bay territory and )  
 Sacramento, on the other hand, serving )  
 certain intermediate and off route )  
 points; )

Application No. 34318

(b) between presently authorized )  
 points and points in the vicinity of )  
 Bakersfield, California; )

(c) for the removal of certain )  
 restrictions on service performed via )  
 alternate route over U. S. Highway 99 )  
 between Bakersfield and Los Angeles, )  
 California. )

Investigation to determine whether )  
 DESERT EXPRESS, a corporation, should )  
 be required to undertake to establish )  
 through routes and joint rates. )

Case No. 5559

Glanz & Russell, by Theodore W. Russell and Robert Y. Schureman, for applicant in Application No. 34318 and respondent in Case No. 5559.

Lloyd R. Guerra, for Western Truck Lines, Ltd., Victorville-Barstow Truck Line; Robert W. Walker and Henry M. Moffat, by Richard K. Knowlton, for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company; E. L. H. Bissinger and John H. Gordon, by John H. Gordon, for Southern Pacific Company, Pacific Motor Trucking Company and Railway Express Agency; Gordon, Knapp & Gill, by Joseph Gill, for Pacific Freight Lines, Pacific Freight Lines Express and Valley Motor Lines, Inc., protestants in Application No. 34318 and interested parties in Case No. 5559.

Clyde Wallace, for the Palmdale Chamber of Commerce and Palmdale Merchants Association; B. P. Glenn, for Lancaster Chamber of Commerce; Burt Jackson, for Desert Express, interested parties.

Luther H. Gulick, Senior Council, for the staff of the Public Utilities Commission of the State of California.

INTERIM OPINION

Applicant is a highway common carrier operating under certificates of public convenience and necessity issued by this Commission authorizing service, generally speaking, between points and places in the Los Angeles territory, on the one hand, and Bakersfield and points and places in the Mojave Desert Area, on the other hand, also between Bakersfield and points and places in the Mojave Desert Area, and between certain points and places within the Los Angeles territory. By Decision No. 50007, dated May 4, 1954, in Application No. 34318, this applicant was granted an extension of these rights between all authorized points of service, on the one hand, and, on the other hand, points and places in a described area in the vicinity of Bakersfield. Certain restrictions relative to the transportation of shipments of not less than 16,000 pounds via U. S. Highway 99 were removed. In this same decision, applicant was denied authority to transport shipments between the Desert Area points and points north of Bakersfield including the San Francisco and Sacramento Areas and intermediate points.

Under date of May 21, 1954, applicant filed a petition for rehearing and reconsideration of that portion of Decision No. 50007, supra, which denied the extension of authority between the Mojave Desert Area points and points north of Bakersfield to and including the Sacramento and San Francisco Areas. A reply to this petition was filed by the protestants herein on June 4, 1954. Subsequently on July 6, 1954, the Commission granted rehearing of said decision. ✓  
✓

This Commission also issued an Order of Investigation on the latter date for the purpose of determining whether the Desert Express "should be required to undertake to establish with any other highway common carrier or carriers . . . a through route and a joint rate between any one or more of the points, on the one hand, ✓  
✓

which respondent is authorized to serve, and, on the other hand any one or more of the points" described in that order. By Decision No. 50775, dated November 16, 1954, that Order of Investigation was broadened to include the Pacific Freight Lines, Pacific Freight Lines Express, Valley Motor Lines, Valley Motor Lines Express and Western Truck Lines.

Public hearings were held in Los Angeles before Examiner Grant E. Syphers on October 19 and 20, November 16, and December 14, 1954. On these dates evidence was adduced and on the last named date the matter was submitted. It now is ready for decision.

The Order of Investigation and the application were consolidated for purposes of the hearing. The prior record leading to Decision No. 50007, in so far as it is relevant, is incorporated into this proceeding.

At the hearing the applicant company presented testimony as to its position. Exhibit 2 consists of a Balance Sheet for this applicant as of June 30, 1954, and a Profit and Loss Statement for the six months ending on June 30, 1954. The plan of operation which it proposed is the same as that proposed in the prior hearings in this matter leading up to Decision No. 50007. Essentially applicant anticipates a service between points in the so-called Desert Area to the Sacramento and San Francisco Areas and intermediate points as far south as Bakersfield. At the present time applicant operates into the Desert Area from the Los Angeles territory and from Bakersfield. It contended in this hearing that there is sufficient demand for its services to justify an extension to the San Francisco Area.

It should be noted that applicant does not propose a through service between Los Angeles and the northern areas and took the position in the hearings that it was willing to accept a restriction

against such a through service. Its entire showing was directed to the alleged needs for hauling between the Desert Area and the San Francisco Area and intermediate points as far south as Bakersfield.

The equipment proposed to be operated and the terminals proposed to be established are the same as those set out in the prior hearing.

At the present time applicant exchanges traffic to or from the Desert Area with other carriers at Los Angeles and at Bakersfield. Exhibit 4 is a statement showing such interchanges during the period June 16 to June 30, 1954.

Testimony was presented as to the growth of population and businesses in the Desert Area. Exhibit 1 contains indices of the growth at Palmdale and Exhibit 3 is a study of the growth at Bakersfield as well as various other desert towns.

It was the position of the applicant that an extension of its service is necessary and that there is a strong public demand for such an extension. In support of this position applicant presented the testimony of various public witnesses who represented companies who ship to or from points in the Desert Area, the San Francisco and Sacramento Areas and intermediate points as far south as Bakersfield. These shippers generally described their needs for trucking service and stated that they preferred applicant to handle their respective shipments. Many of them voiced objections to the delays presently experienced in hauling to or from the Desert Area and pointed out that in most instances the freight must be interchanged at Los Angeles or Bakersfield. They emphasized the growing demand for additional hauling and all expressed a preference for applicant to perform that hauling. In opposition to the proposed extension, a witness for the Valley Motor Lines and Valley Express presented Exhibit 5 which is a recapitulation of the shipments delivered by those companies to

applicant during the month of June 1954. The witness stated that the companies he represents are willing to enter into joint through rate arrangements with applicant, but stated that to allow Desert Express its full local rate for hauling to or from the desert points would be inequitable. It should be noted that these two companies consist of one express company and one highway common carrier. In general the common carrier acts as the underlying carrier for the express company.

A representative for Western Truck Lines presented testimony to the effect that the volume of traffic now available in the Desert Area is approximately 10 per cent less than a year ago. This company also interchanges with applicant at Los Angeles and stated it was willing to continue such an interchange arrangement and further it was willing to enter into joint rates with the applicant.

The Victorville-Barstow Truck Line presented testimony in opposition to this proposal and referred to the prior testimony of that company in the original hearing leading up to Decision No. 50007. This company presently operates into the Desert Area and interchanges at Los Angeles with certain line haul carriers. Part of its testimony was to the effect that there is no need for an additional carrier in the Desert Area. It further challenged the prior testimony that it had been guilty of delays on shipments to the Desert Area and presented Exhibit 6 to counteract prior testimony in this regard. Exhibit 6 is a list of shipments delivered from the Jackson Pontiac Company to the Valley Express for delivery in the Desert Area. Desert Express turned these shipments over to Victorville-Barstow Truck Lines at Los Angeles.

In connection with the Order of Investigation, as amended by Decision No. 50775, supra, each of the opposing carriers stated that it was willing to enter into joint rate arrangements with applicant. However, applicant testified that the only arrangement

it was willing to enter into was one under which it would receive its full local rate for hauling into the Desert Area. Applicant contended that this was necessary in order to operate at a profit.

Exhibit 9 submitted by applicant shows the estimated effect of through rates on the revenues of applicant company for the years 1952 to 1954, inclusive, while Exhibit 10 shows the points served by the opposing carriers. Exhibit 11 sets out suggested divisions of through rates between points served by Desert Express and points served by Valley Motor Lines. This last named protestant believes these suggested divisions to be fair and equitable.

A witness for the Transportation Rate Section of the Commission's staff presented a study showing the local and joint minimum rates and the volume of traffic between points on the existing lines of the Desert Express and the San Francisco and Sacramento Areas. Exhibit 8 is a statement showing the points on the line of applicant and points in northern California between which through rates now are published by certain companies named therein.

The applicant contended that it could not successfully conduct hauling in the Desert Area at anything less than its full local rates. It was pointed out that many of these local hauls received at Bakersfield from line haul carriers were destined to points within 30 miles of Bakersfield. The protestants who all favored the institution of joint through rates used this position of applicant as a basis for contending that applicant could not successfully operate to the Bay Area points over a much longer haul and for not too much more revenue than it was receiving on its hauls within 30 miles of Bakersfield. Applicant responded that the biggest cost in hauling was not the line haul cost, but rather the cost of local pickups and deliveries.

Consideration of all of this evidence leads us to the conclusion and we now find (1) that applicant should enter into joint through rates with the carriers who are parties hereto at the interchange points of Bakersfield and Los Angeles and (2) if and when such through rates are established, it will serve the public convenience and necessity to permit applicant to conduct an operation as a highway common carrier as is herein requested, with the exception of service to the Sacramento and Stockton Areas. On this record we find that portion of the application requesting service to points north of Manteca on U. S. Highway 99 should be denied.

With the exception above noted, the record discloses a strong shipper desire for a through service to the Desert Area. The protestant carriers herein are not providing such a through service, although they receive shipments destined to or originating from the Desert Area. Under such conditions, if applicant is to become the only carrier authorized to provide a through service, it likewise will be required to enter into joint through rate arrangements with the protestant carriers for transportation between the Desert Area and all points north of Bakersfield which are served by these carriers. It should be noted that some of the protestants are express carriers who presently have through rates published to and from the Desert Area.

INTERIM ORDER

Application as above entitled having been filed, an Order of Investigation as above entitled having been issued, public hearings having been held thereon, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require, and that it is in the public interest,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity authorizing the establishment of a service as a highway common carrier

as defined in Section 213 of the Public Utilities Code, 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, between all presently authorized points of service in the Mojave Desert region as described in applicant's existing certificates, on the one hand, and, on the other hand, the San Francisco Bay territory as described in Appendix A attached hereto, including all intermediate points and off-route points within five miles of either side of the routes herein-after set out, as an extension of and addition to its existing operating authority.

(2) That the authority granted herein shall be subject to the following restriction:

- (a) No through service shall be performed between the Los Angeles Area as described in applicant's existing certificates and any point north of Bakersfield.

(3) That in providing service pursuant to the certificate herein granted there shall be compliance with the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, Desert Express shall conduct said highway common carrier operations over and along the following routes:



Between the Los Angeles territory and Manteca via U. S. Highway 99, thence via State Highway 120 and U. S. Highway 50 between Manteca and San Francisco.

Alternate route between the intersection of U. S. Highway 99 and State Highway 198 and Fresno, via State Highways 198 and 41.

(4) The certificate herein granted shall not become effective and no operation shall be performed thereunder unless and until the Desert Express enters into joint through rate arrangements as are hereinafter directed.

(5) Desert Express, a corporation, Pacific Freight Lines, Pacific Freight Lines Express, Valley Motor Lines, Valley Motor Lines Express and Western Truck Lines be, and they hereby are, ordered to enter into and publish joint through rates covering the transportation of commodities as herein authorized between the Mojave Desert region, on the one hand, and, on the other, such points north of Bakersfield as are presently authorized to be served by the carriers herein concerned.

(6) In the event that, within sixty days from the effective date of this order, the carriers named in paragraph (5) hereinabove are unable to agree as to the respective divisions each of them should receive from the joint rates hereinabove ordered to be published, then the carriers concerned, and each of them, are hereby ordered to submit a statement to this Commission setting out any joint rate arrangements in connection with this hauling which each carrier may be willing to accept.

This order is interim in nature and this Commission may take further action as to the establishment of joint rates as herein

ordered or as to any other matter which may be necessary and proper in the premises.

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

Dated at San Francisco, California, this 17th day of APRIL, 1955.

John E. Mitchell  
President

James F. Cooney

Raymond S. Kerner

William D. Hooley

Commissioners

APPENDIX A

SAN FRANCISCO TERRITORY includes that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway No. 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway No. 101 to its intersection with the corporate boundary of the City of San Jose; southerly, easterly and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway No. 40 (San Pablo Avenue); northerly along U. S. Highway No. 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.