

ORIGINALDecision No. 51622

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Victorville-Barstow)
 Truck Line, a corporation, for an)
 Order under Section 1063 of the)
 Public Utilities Code authorizing)
 a change in route.)

Application No. 36605

Gordon, Knapp and Gill, by Wyman C. Knapp,
 for applicant.

Raymond Tremaine, for Desert Express,
 protestant.

Albert A. Higgins and Benn W. Porter, for
 Higgins Trucks, Inc., interested party.

O P I N I O N

By Decision No. 34651, dated October 7, 1941, in Application No. 24143, applicant's predecessor, L. L. Mockenhaupt, doing business as Victorville-Barstow Truck Line, received an in-lieu authority from this Commission to render service as a highway common carrier for the transportation of property (1) between Los Angeles, Colton and San Bernardino, on the one hand, and Verdemon, Lucerne Valley, Yermo and Bicycle Lake and intermediate points, on the other hand, and (2) between Los Angeles, Colton and San Bernardino, on the one hand, and points located laterally within nine miles on each side of U. S. Highway No. 66 between Millers Corner and Helendale, and on California Highway No. 18 between Victorville and Lucerne Valley, via designated routes and subject to the restriction that "(a) applicant shall not render local truck service between Verdemon, Yermo,

Lucerne Valley or Bicycle Lake or intermediate points, located on U. S. Highway No. 66 or California State Highway No. 18, nor between said point, on the one hand, and points located within nine miles laterally of said highways between said points, on the other hand."

By Decision No. 38062, dated July 10, 1945, in Application No. 26554, L. L. Mockenhaupt, doing business as Victorville-Barstow Truck Line, received from the Commission authority to perform pickup and delivery service "between points and places situated within Zones 1A, 1B, 1C, 1D, 10, 11, 12 and 17 of the Los Angeles Drayage Area, as defined in Items Nos. 30, 31, 32 and 33 appearing on original pages 9 to 12, inclusive, of City Carriers' Tariff No. 4, established by Decision No. 32504, in Case No. 4121, as amended. No freight may be transported other than that moving to or from points currently served by applicant, as a highway common carrier, under its existing operative rights."

By Decision No. 36047, dated December 22, 1942, in Application No. 25255, L. L. Mockenhaupt, doing business as Victorville-Barstow Truck Line, received authority to extend service "(o)ver any and all public highways open to and available for truck transportation between Daggett and U. S. Army Airport and Base Hospital."

By authority of Decision No. 44083, dated April 25, 1950, in Application No. 31287, Victorville Barstow Truck Line, a corporation, applicant herein, acquired the above-described operating rights.

By Decision No. 46408, dated November 13, 1951, in Application No. 32233, applicant was granted authority as a highway common

carrier to carry 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. This authority was subject to certain conditions not herein material, and the routes to be used were prescribed. In addition, the lateral service rights description set forth in Decision No. 34561, referred to supra, was amended.

Applicant has other rights not material herein (see Decision No. 47805 dated October 7, 1952 in Application No. 33677, as amended by Decision No. 47913, dated November 18, 1952, in Application No. 33677).

By the application herein, filed on December 31, 1954, applicant seeks authority to serve between Los Angeles and Palmdale via U. S. Highways 99 and 6 with a restriction that it may render no local service between Los Angeles and Palmdale. The granting of this authority was protested by Desert Express, a highway common carrier which has authority to render service as such from the Commission in the Palmdale-Lancaster-Mojave area.

A public hearing was held before Examiner Kent C. Rogers in Los Angeles on April 4 and 11 and May 5, 1955.

On May 16, 1955, the matter was orally argued and submitted. It is ready for decision. The applicant has joint rates with other carriers on traffic originating at or destined to points outside its service area.

In presenting its evidence applicant produced no public witnesses to show that public convenience and necessity require that it be given the authority requested, its counsel's theory being that all that it was required to show was that the granting of the proposed authority would not be adverse to the public interest inasmuch as, so the applicant claims, it has authority to serve between Los Angeles, on the one hand, and points on U. S. Highway 6 between Palmdale and Mojave, inclusive, on the other hand, by operating through San Bernardino.

The applicant's evidence shows that under present operations traffic from the Los Angeles-Colton-San Bernardino origin area goes to San Bernardino on daily schedules. From the San Bernardino terminal less-than-truckload traffic moves to the Palmdale-Lancaster-Mojave-Edwards Air Force Base area three times per week. Applicant's proposal is to continue this service but to move the traffic through Los Angeles and thence via U. S. Highways 99 and 6 to the termini listed. Applicant contends that by routing the service as proposed it can save mileage. For example, it asserts that the proposed route between Los Angeles and Mojave is 57.6 miles shorter than the existing route through San Bernardino (see Exhibit "V" on Exhibit 2). On the other hand, applicant proposes to continue to serve the Palmdale-Mojave area for traffic originating in San Bernardino or Colton by bringing such traffic into Los Angeles and then taking it with the Los Angeles-originated traffic direct to the Palmdale-Lancaster area. It is only 65.6 miles to Palmdale from San Bernardino via applicant's existing route, but by the route proposed herein it would be 58 miles from San Bernardino to Los Angeles and 65 miles from Los Angeles to Palmdale, or an increase of about 57 miles for the delivery of this traffic.

In addition to an alleged reduction in mileage as a result of the proposed routing, applicant testified that if the requested authority is granted it will be able to eliminate two drivers in its San Bernardino terminal and add one to the Los Angeles staff, giving it a net saving of one driver drawing a salary of approximately \$5,000 per year; make more efficient use of its trucks; and reduce the number of trips so that it would save an estimated \$4,595 a year (see Exhibit "Y" on Exhibit 2).

Besides these calculated savings, applicant's witness stated that it would realize other savings. He believed, for example, that losses resulting from lost freight would be eliminated and that there would be other economies that he could not readily identify.

Exhibit No. 7 shows that on an average week approximately twice as much of applicant's traffic to the Palmdale-Mojave-Edwards Air Force Base area originated in Los Angeles as originated in the San Bernardino-Colton area.

The evidence shows that applicant lost from its operations \$27,340 during the year 1954 (Exhibit "O" on Exhibit 1). Its annual reports on file with this Commission show that for the year 1953 it lost \$24,404 and for the year 1952 it lost \$17,453 as a result of its carrier operations.

Desert Express, a highway common carrier serving between Los Angeles, on the one hand, and the Palmdale-Mojave-Barstow area, on the other hand, protested the application. Its witness, an experienced truck operator with a background of desert trucking operations, testified that in his opinion the applicant cannot realize the estimated savings. The protestant's witness further testified that the protestant has no joint rates in the area with other carriers, and that if the applicant is given the authority it seeks it will divert traffic from the protestant because of its joint rates and that the volume of traffic in the area is so low that protestant will be forced to curtail its services if the proposed service is inaugurated.

This witness further testified that prior to the hearing on applicant's request for authority to serve between Colton and San Bernardino, on the one hand, and the Palmdale-Mojave-Edwards Air Force Base area, on the other hand (A. 32233 referred to above on which Decision No. 46408 was rendered) he had a conversation with applicant's then traffic manager, who advised him that applicant did not intend to serve between the said desert area and Los Angeles but that service was to be rendered only between Colton and San Bernardino and the Desert area. As a result of this conversation applicant did not protest the granting of the requested authority.

The applicant's attorney argued that applicant has authority to serve between Los Angeles and the Palmdale-Mojave-Edwards Air Force Base area by virtue of the provisions of Section 1066 of the Public Utilities Code, which permits the linking of one carrier's rights which pass through a common point; and that, having such authority, the only showing it need make in order to serve via a shorter route between two of its authorized points is that such authority is not adverse to the public interest (In Re Desert Express, Decision No. 42385, dated December 29, 1948, in Application No. 29603), and that the same service can be rendered cheaper via the proposed route than via the existing route.

The protestant's counsel argued that the applicant does not have authority to serve between Los Angeles, on the one hand, and the Palmdale-Mojave-Edwards Air Force Base area, on the other hand, as Application No. 32233, referred to above, requested authority only between Colton and San Bernardino, on the one hand, and the said desert area on the other hand.

The protestant's witness in the hearing herein testified that at the time Application No. 32233 was filed applicant's then manager advised him that the service proposed by Application No. 32233 was to be as stated above only, and as a result thereof he did not protest Application No. 32233; ⁽¹⁾ and the decision in Application No. 32233 (Decision No. 46408) reflects that the only witnesses called by the applicant in the hearing thereon were those desiring service between the San Bernardino area, on the one hand, and the Palmdale-Mojave-Edwards Air Force Base area, on the other hand.

We find that the authority sought in Application No. 32233 was to serve between San Bernardino-Colton and the Palmdale-Mojave-Edwards Air Force Base area, and not between Los Angeles and the latter area. We find further that the language of our Opinion in Decision No. 46408, upon Application No. 32233, makes it quite clear that it was our intention by that Decision to authorize the said desert service from and to the San Bernardino-Colton area only, and not from and to Los Angeles.

In view of the entire record it is our opinion that the applicant, in order to justify the requested authority, must make a showing that public convenience and necessity require that the proposed service be authorized.

As the record herein does not show that public convenience and necessity require that applicant be given the authority it has requested, the application will be denied.

(1) The transcript of the hearing on Application No. 32233 reflects, at page 135, that the applicant's then manager stated that the said service was not to include Los Angeles.

O R D E R

The above-entitled application having been filed, public hearings having been held thereon, the matter having been argued and submitted, and the Commission having made the findings set forth in the opinion herein, and based upon said findings,

IT IS ORDERED that the application be, and the same hereby is denied.

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

Dated at San Francisco, California,
this 28th day of January, 1955.

John E. Mitchell
President

Justin D. Caswell

Ray L. Lutz

William S. Kish

H. H. H. H.

Commissioners