

**ORIGINAL**Decision No. 52109

## 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;

(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.

Application No. 34318

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 Counsel, for the staff of the Public Utilities Commission of the State of California.

O P I N I O N

By Decision No. 51330, dated April 12, 1955, in Application No. 34318 and Case No. 5559, this Commission issued an interim order granting to Desert Express a certificate of public convenience and necessity as a highway common carrier for the transportation of general commodities with exceptions between points in the Mojave Desert region presently served by Desert Express, on the one hand, and, on the other, the San Francisco Bay territory. This grant of authority was made subject to certain restrictions, including the following:

"(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."

Subsequently on July 5, 1955, Desert Express filed with this Commission a statement indicating that it was willing to enter into joint through rate arrangements, but that it was informed, and believed, that the other carriers involved, with the exception of Western Truck Lines, Ltd., were unwilling so to do. On the same date the Desert Express filed a petition requesting cancellation of paragraph 4 of the interim order in Decision No. 51330, supra. This petition was dismissed by Decision No. 51870, dated August 23, 1955, and the matter was set for further hearing. On August 24, 1955, the protestant carriers filed a statement requesting an order of this Commission denying Desert Express authority to serve as a highway common carrier as set out in Decision No. 51330, supra, and requesting an order requiring the establishment of joint through rates. In the alternative the petition requested that should the Commission reaffirm Decision No. 51330, supra, granting applicant authority to serve the points named therein, then the matter of joint through rates be dismissed.

A further hearing was held in Los Angeles on September 19, 1955, before Examiner Grant E. Syphers, at which time further evidence was adduced and statements of counsel were heard. The matter was submitted and now is ready for decision.

At this hearing additional financial statements were introduced by a witness for Desert Express and testimony was presented to the effect that the establishment of joint through rates would have a detrimental financial effect upon that company. In the opinion of the witness any joint through rates established should be in one tariff, preferably the tariff of Desert Express. The witness further testified that in his opinion the only equitable rate for Desert Express is its full local rate and while the

company was willing to agree to a 50-50 division of the through rates from San Francisco to the desert area, such a division would not provide sufficient revenue to Desert Express. The witness stated that to perform service in the desert area it is necessary to travel to off-highway points in thinly populated areas and to traverse long mileages to make deliveries.

The position of the protestants was the same as that set out in their statement filed August 24, 1955.

A consideration of this record leads us to the conclusion and we now find that a certificate should be granted to Desert Express in accordance with the terms of Decision No. 51330, supra, and that this Commission should take no action regarding the establishment of joint through rates at this time. None of the parties to this proceeding are willing to enter into joint through rates on a voluntary basis and this record discloses no compelling reason why this Commission should now order the establishment of such rates.

#### O R D E R

Application as above entitled having been filed, an order of investigation as above entitled having been issued, public hearings and rehearings 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 hereinafter 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.

IT IS FURTHER ORDERED that the provisions of the interim order contained in Decision No. 51330, dated April 12, 1955, be and they hereby are cancelled and are of no further effect.

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

Dated at San Francisco, California, this 18<sup>th</sup> day of October, 1955.

John E. Mitchell  
President

Justin J. Cannon

Paul J. Anderson

Matthew J. Kelly

B. Hardy

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; northly 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.