

ORIGINAL

Decision No. 62931

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
VICTORVILLE-BARSTOW TRUCK LINE, a
corporation, for an in lieu certifi-
cate of public convenience and neces-
sity as a highway common carrier of
general commodities between various
points in Southern California pursuant
to Sections 1063-1064 of the California
Public Utilities Code.

Application No. 43203
(Filed March 6, 1961)

Arthur H. Glanz, for applicant.
Donald Murchison and Graham, James & Rolph,
by Boris H. Lakusta, for protestants.

O P I N I O N

This application was heard before Commissioner George G. Grover and Examiner Kent C. Rogers in Los Angeles, California, on June 1 and before Examiner Rogers in Los Angeles on August 16 and 17, 1961, and was submitted on the latter date.

Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

The protestants are Los Angeles City Express, Intercity Truck & Delivery Service, Inc., and Royal Transportation Co., Inc., represented by Donald Murchison; Boulevard Transportation Company, California Cartage Company, California Motor Express, Ltd., and California Motor Transport Co., Ltd., Valley Express Company and Valley Motor Lines, Inc., Delta Lines, Inc., Merchants Express of California, Southern California Freight Lines, and Pacific Motor Trucking Company, represented by Boris H. Lakusta.

Applicant is a highway common carrier engaged in the transportation of general commodities, with exceptions,

(a) Between all places within the Los Angeles Territory, which territory is smaller than and included in the Los Angeles Basin Territory, and extends from Sepulveda, Van Nuys and Beverly Hills, on the west, to San Gabriel, Montebello, Whittier, Santa Fe Springs, Lakewood, and Signal Hill, on the east, and

(b) Between the Los Angeles Territory, on the one hand, and, on the other hand, points and places in an area roughly bounded by Mojave, Rosamond, Lancaster and Palmdale, on the west, Mojave, Kramer, Barstow, and Bicycle Lake, on the North, and Yermo, Daggett, Victorville, Lucerne Valley, Cajon Junction and San Bernardino, on the east.

Applicant has the right to serve between points in the described area north of the Los Angeles Basin Territory. It may not serve that portion of the Los Angeles Basin Territory west of Sepulveda, Van Nuys, Santa Monica and Beverly Hills, that portion of the Los Angeles Basin Territory situated in Orange County and Riverside County, and the small portion of the Los Angeles Basin Territory east of Redlands and including Yucaipa.

By the application herein, it seeks to enlarge its authority to permit it to operate between all points in the Los Angeles Basin Territory and between such points and the balance of its presently authorized service area north of the Los Angeles Basin Territory.

Service in the extended area would be rendered daily five days per week. Same-day service is proposed in the Los Angeles

Basin Territory on requests where pickups may be made prior to 2:00 P.M.

Applicant has approximately 69 pieces of transportation equipment, including 20 gasoline and diesel tractors, 28 semi-trailers varying in length from 21 feet, 6 inches to 40 feet and being both van-type and flat-rack; and 21 pickup trucks varying in length from 8 feet to 18 feet. One of these trucks is equipped with a tail gate lift. It has 54 employees, including line drivers, and four terminals. These include one in Los Angeles at which there are 34 employees, one in Victorville at which there are seven employees, one in San Bernardino in which there are five employees, and one in Barstow at which there are eight employees.

Applicant's current assets as of April 30, 1961, amounted to \$73,615, with approximately \$22,000 cash in the bank. Its current liabilities as of said date totaled approximately \$71,000. For the period from January 1, 1961, through April 30, 1961, it had a gross income from operations of \$222,000 and expenses of \$208,000 for a net income before taxes of approximately \$14,000.

Applicant is a party to Western Motor Tariff Bureau, Inc., Local, Joint and Proportional Freight Tariff No. 18-B, Cal. P.U.C. No. 17, (J. L. Beeler, Agent Series) W. J. Knoell, Issuing Officer, in the publication of its rates and charges with respect to the territory and routes which it presently serves as a highway common carrier. It proposes to establish rates for the extended territories and routes substantially in conformity with the rates and charges published in its present tariff.

Six shippers appeared as witnesses on behalf of the applicant. The products they ship include canned pet foods, farm implements and parts, telephone cable and reels, bank stationery and supplies, tires, tubes, batteries, and paper food and drink containers.

The pet food shipper uses applicant's services between Los Angeles and the desert area and other carriers between Los Angeles and points in Los Angeles, Riverside, Orange, and San Bernardino Counties not served by applicant, but which applicant is seeking authority to serve. This shipper has regular carriers to all points, but would like a same-day service for emergencies. It would use applicant's service as this would give it another carrier on which to depend. It would use the applicant, if certificated.

The shipper of farm implements and parts ships between Oro Grande and points north thereof in San Bernardino County and between Los Angeles and said points. Applicant has authority to provide this service. This shipper also ships between Santa Ana and Oro Grande and points in the desert. Applicant is not authorized to render this latter service, but is seeking authority therefor. The protestants who appeared in this matter do not render service to and from the desert and Oro Grande. The shipper desires that the applicant be authorized to render this service.

The California Interstate Telephone Company has an office in Victorville and a warehouse in Adelanto in San Bernardino County. It receives cable and supplies from Los Angeles and Orange County points and returns the empty cable reels to the same points. It

uses the applicant exclusively where it has authority to serve, that is, between Los Angeles, Adelanto, and Victorville, but it desires that the applicant be authorized to provide service between Adelanto and the Orange County points. The protestants do not provide service to the said San Bernardino County points.

The Bank of America has a branch bank in Victorville and receives some of its supplies from a warehouse in Orange, Orange County. The manager of the Victorville branch would like to have applicant's services available for shipments from Orange to the bank in emergencies. These emergencies occur from 12 to 20 times a year. The present service by another carrier is adequate for day to day purposes and will be continued.

The sales manager for the Los Angeles office of Lee Tire & Rubber Company testified that the company sells and ships tires, tubes, and batteries to various places in the Los Angeles Basin Territory. The company has used the applicant exclusively for approximately four years where applicant is authorized to serve and is presently attempting to develop a volume of sales at the El Toro Marine Base. This company desires that the applicant be authorized to serve the Los Angeles Basin Territory.

A representative of the Continental Can Corporation testified that the paper division of that corporation sells paper drinking cups and paper food containers. The office from which those products are shipped is in Los Angeles. This shipper uses applicant occasionally for its services and ships to the portion of Orange County, Riverside County, and San Bernardino County, which applicant

is not authorized to serve, approximately once a month. It uses a contract carrier for the majority of its services, but would like to have applicant's services available for emergency shipments.

The application was protested by 13 carriers of property of which the following three introduced evidence relative to their operations, operating results, and facilities.

Los Angeles City Express is authorized to provide service to, from, and between all points in the Los Angeles Basin Territory, among other places. As of April 19, 1961, it had approximately 55 pieces of equipment. It has terminals in the City of Los Angeles and one in Banning. It has salesmen in the entire area. Its witness testified that it has lost accounts in the last two years and that it needs the business.

Intercity Truck & Delivery Service, Inc., carries general commodities between points in the Los Angeles Basin Territory. It received its certificate in the Los Angeles Territory in 1956 and extended this authority to include service to all points in the Los Angeles Basin Territory in 1960. It provides a daily service and has approximately 43 pieces of equipment with which to provide service.

Southern California Freight Lines serves the entire Los Angeles Basin Territory. It has terminals in Los Angeles, Colton, Hemet, and Santa Ana in the Los Angeles Basin Territory and has approximately 1,432 pieces of equipment of all types, of which 23 are stationed in the Colton terminal, three in the Hemet terminal, 205 in the Los Angeles terminal, and 11 in the Santa Ana terminal.

Each of the listed protestants actively solicits business, claims it can handle more traffic, and is anxious and willing to secure the business to, from, and between the points in the extended territory applicant requests authority to serve.

The record herein shows that the applicant is presently providing a service between points in the Los Angeles Territory, between points in the desert area north and east of the Los Angeles Territory, and between points in the Los Angeles Territory, on the one hand, and points in the desert territory, on the other hand. The record further shows that applicant has had requests for service between points in the authorized service area, on the one hand, and the entire Los Angeles Basin Territory, on the other hand.

Upon consideration of the evidence, the Commission finds and concludes as follows:

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

Victorville-Barstow Truck Line is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at

any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Public hearings having been held and based upon the evidence therein adduced,

IT IS ORDERED:

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 between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof, subject to the restrictions and conditions set forth in said Appendix A.

2. That Appendix A of Decision No. 59930 is amended by incorporating therein First Revised Pages 2, 3 and 5, attached hereto, in revision of Original Pages 2, 3 and 5.

3. That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the

certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-B. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-B, may result in a cancellation of the operating authority granted by this decision.

- (b) Within one hundred twenty days after the effective date hereof, and on not less than ten 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.

The effective date of this order shall be ~~twenty~~ ^{ten} days after the date hereof.

Dated at San Francisco, California, this 12th day of DECEMBER, 1961.

[Signature]
President

[Signature]
Frederick B. Holoboff

Commissioners

C. Lyn Fox
Commissioner _____, being necessarily absent, did not participate in the disposition of this proceeding.

A. BETWEEN POINTS IN THE LOS ANGELES BASIN TERRITORY
DESCRIBED AS FOLLOWS:

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U. S. Highway No. 99; northwesterly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwestwardly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestwardly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwestwardly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

Issued by California Public Utilities Commission.

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B. BETWEEN THE LOS ANGELES BASIN TERRITORY HEREIN-
ABOVE DESCRIBED AND POINTS AND PLACES AS FOLLOWS:

1. Between the Los Angeles Basin Territory and Palmdale over U. S. Highway No. 6, serving no intermediate points.
2. Between the Los Angeles Basin Territory and Barstow (including junction with U. S. Highway 466), over U. S. Highways Nos. 66-91, serving all intermediate points.

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D. BETWEEN INTERMEDIATE AND OFF-ROUTE POINTS AS
FOLLOWS:

1. Serving all intermediate points and all off-route points located laterally within nine miles of all the routes described above except intermediate and off-route points east of Newberry on U. S. Highway No. 66 and on unnumbered highway between Amboy and Marine Corps Field Artillery and Anti-Aircraft Training Center near Twentynine Palms, and except intermediate and off-route points on U. S. Highway No. 6 between the Los Angeles Basin Territory and Palmdale.
2. Operating over all accessible public highways between all of said termini, intermediate and off-route points in combination one with the other.

End of Appendix A

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