

ORIGINAL

Decision No. 72938

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
IMPERIAL TRUCK LINES, INC., a
corporation, for an extension of its
present in lieu Certificate of Public
Convenience and Necessity to operate
as a Highway Common Carrier

Application No. 48045
(Filed November 8, 1965)

Murchison & Stebbins, by Donald
Murchison, for applicant.
Russell & Schureman, by Theodore W.
Russell, for Western Gillette, Inc.,
protestant.
Arthur H. Glanz, for Southern California
Freight Lines, Ltd., interested party.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on October 6 and 7, 1966, and at Indio on January 10, 1967, and the hearing concluded and the application submitted at Los Angeles on January 13, 1967, subject to the filing of concurrent briefs which have been received.

Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestant is Western Gillette, Inc.

Applicant is a highway common carrier engaged in the transportation of general and special commodities with certain exceptions between Los Angeles and San Diego and between points in the Coachella Valley and the Imperial Valley as authorized by

Decision No. 60235, dated June 6, 1960, as amended by Decision No. 68456, dated January 12, 1965. Applicant also operates between the same points and places in interstate and foreign commerce, pursuant to Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC 99745 (Sub. No. 2), dated July 2, 1965, and in intrastate commerce between points and places in California pursuant to city carrier, highway contract carrier and radial highway common carrier permits.

Applicant requests authorization to extend such highway common carrier operations so as to transport general commodities with exceptions from his present authority to Eagle Mountain and all points located within ten miles laterally along the roadway to said point.

The proposed service is to be on call, except Sundays and holidays, and will normally be overnight in character, to be picked up on one day and delivered at destination on the following day.

Applicant presently is a party to Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, in the publication of its rates and charges and proposes to use rates substantially in conformity therewith for the extended service.

Eagle Mountain is the main delivery point involved in this proceeding and is located 12 miles north of Highway 60 and 15 miles from Desert Center which is about half-way between Blythe and Indio, about 50 miles each way. Eagle Mountain is at the end of the road uphill and across the Colorado River aqueduct into

the Eagle Mountains and is solely dependent for its existence upon the operation of an iron mine by the Kaiser Steel Company. There is no through traffic and there is no other development or prospect of any other development in this area north of Highway 60 other than that generated by the Kaiser iron mining. The entire area is subject to the desert elements, sand storms, winds and high temperatures during most of the year, with the only service points being Blythe, Desert Center and Indio. Desert Center is a junction composed of several service stations, a garage, a restaurant and a motel.

Applicant requests authority to extend its service from Indio to Eagle Mountain, including a territory for 10 miles on both sides of the road. Western Gillette is now serving Eagle Mountain and also operates throughout California, south of San Francisco, and has operations in Nevada, Arizona, New Mexico, Texas, Oklahoma and Arkansas.

Both parties presented evidence of financial ability and produced lists of operating equipment to show their ability to provide the proposed service in this area. An executive officer for the applicant testified in regard to applicant's operations at the present time and introduced into evidence Exhibits Nos. 1 through 10, which are copies of the applicant's operating authority before the Public Utilities Commission and the Interstate Commerce Commission and include points lists, financial statements and a summary of tonnage which was hauled to Eagle Mountain monthly during 1965 and 1966. Applicant's balance sheet shows assets in excess of \$600,000, and the statement dated

June 30, 1966, describes operating revenues in excess of \$1,100,000. Applicant has terminals at Los Angeles, Riverside, and Indio, California, and is using operating equipment in excess of 200 units.

Copy of Exhibit No. 10 in evidence is as follows:

IMPERIAL TRUCK LINES, INC.

EAGLE MOUNTAIN SHIPMENTS
Tonnage and Revenue (Yearly Total)

| <u>Year</u> | <u>Tonnage</u> | <u>Revenue</u> |
|---------------------|----------------|----------------|
| 1963 | -0- | -0- |
| 1964 | 28,542 | \$ 182.25 |
| 1965 | 455,703 | 6,113.48 |
| 1966 (1st 8 months) | 610,552 | 5,594.42 |

Applicant established that it possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed extension of its service and no issue was raised as to applicant's ability. At the hearing in Los Angeles an operating witness testified and applicant produced four public witnesses. The testimony of the public witnesses indicated that they had used the Western Gillette service, but that they needed .. and would like to have a choice of carriers to Eagle Mountain so that if they could not get one carrier to make a haul they could call another one. Two of these shippers testified to difficulties with Western Gillette service as a reason for calling the applicant. The problem of one shipper was that it always needed open flat bed trucks for its heavy engine and transmission shipments which had to be loaded by crane and could not be placed in a closed van and that the Western Gillette had failed at times to furnish such open equipment when needed.

Other shippers testified to delays by Western Gillette in delivery of freight to Eagle Mountain such as reinforcing steel which was scheduled to be delivered at a specified time to meet concrete pouring schedules. Another shipper testified to inability of Western Gillette to make special deliveries of heavy engines, transmissions and axles which were breaking down on 20 units sold to contractors at Eagle Mountain by this shipper, and that this shipper also testified that it kept its own trucks to make some of these special deliveries required at all hours of the day and night, but that this emergency was over and that it would not be required in the future. One shipper testified that Western Gillette had lost an engine weighing 5,240 lbs. for about a week causing delay of the shipment.

Another witness was shipping steel bars, plates, sheets, and raw construction steel to be used for reinforcing cement buildings and other construction. One of the shippers had some heavy metal doors and door frames to be used in a high school under construction at Eagle Mountain and this witness testified that this was the first shipment that they had made to that area and that they had no prospects of any other jobs or other shipments to be made.

Three shippers testified at Indio, California, that they needed common carrier service from Indio to Eagle Mountain, but had no need for large volumes or regular shipments. Two of these shipper witnesses were local business men, one of whom operated a local hardware store at Indio, and testified that he had about one shipment per week to Eagle Mountain. The commodities

to be shipped consisted of stoves, refrigerators, and other household appliances, many of which require installation, and these would not be shipped by common carrier, but would be delivered in their own trucks by the men who do the work of installation. The other local business man was installing linoleum and other floor coverings and testified that he would probably not have more than two or three shipments per year of linoleum or rugs due to the fact that the deliveries are made by the installers of the linoleum and tile. The other shipper at Indio is moving powdered aluminum and bean meal from Kentucky and North Carolina in railroad cars to Indio. The powdered aluminum goes in one-ton containers and the bean meal in bags and is shipped by railroad cars to Indio and then to Eagle Mountain by truck. About 100,000 lbs. of these commodities is shipped per month. The witness testified that his company desires to have the applicant transport this material from Indio to Eagle Mountain. The materials are used in the mixing of explosives to be used in the mining operations.

The traffic manager for Lee Way Motor Freight, an interstate carrier, testified that the company has an interchange agreement with the applicant and that it would have three or four shipments per month to Eagle Mountain from its eastern shippers and that it supported the application. This witness also testified that it had an interchange agreement with another carrier to Eagle Mountain, but did not have one with Western Gillette.

Applicant's evidence indicates that shipments of the engines and heavy items of building materials and steel windows and doors will fall off sharply in the future unless freight is

obtained from other sources and the only freight likely to be constant is the aluminum and bean meal from Indio. Other freight available to applicant would be by interline with the Lee Way Motor Freight.

Three operating witnesses testified for Western Gillette. The traffic manager testified that the company first started the service to Blythe in 1931 and pioneered the hauling of freight into Eagle Mountain at the request of Kaiser Steel Industries in 1954. At this time there was a great deal of construction and building started and since then the amount of activities at Eagle Mountain has varied depending upon the amount of construction. At the present time the freight going to Eagle Mountain is declining, but it is expected that at some time in the future there may be an increase in construction.

The Western Gillette terminal manager at Blythe, California, testified that he originated this service and described the operations of the company at Eagle Mountain. Western Gillette also has an employee stationed at Eagle Mountain who testified as to his duties there. He testified that he is a heavy duty driver and operated the tractor which was stationed there and picks up the trailer with freight at Desert Center when left there during the night. This trailer would then be hauled to Eagle Mountain and the freight delivered at that point. This employee at Eagle Mountain also operated a delivery truck to make the deliveries to the town of Eagle Mountain, and also to pick up outgoing freight. Most of the freight delivered was sent to the Kaiser mining operations and there was very little outgoing freight.

This witness testified that much more freight could be handled by him at that point.

The Western Gillette witnesses testified that the trucks going from Desert Center to Eagle Mountain are not full and very much more freight could be handled by them in their operation. Western Gillette operates main terminals at Los Angeles, California, and Dallas, Texas, and terminals at Blythe, Guasti, and National City, California, and a large terminal at Phoenix, Arizona, with 100 employees. The freight transported depends entirely upon the mining operations by the Kaiser companies and the amount of freight increases when construction operations are in progress, and is more than 90 percent of the freight hauled. The traffic manager testified that operations of Western Gillette at Eagle Mountain lose money on much of the freight handled by the company and that any further losses would probably make it necessary for them to discontinue the keeping of a man at Eagle Mountain to distribute and collect the freight. Exhibit No. 14 is a list of the protestant's motor vehicle equipment showing a grand total of 2,025 units in operation. Exhibits Nos. 15 and 16 introduced by protestant described the many kinds of freight, with revenue and weight, which are delivered by their trucks to Eagle Mountain and show that they come from all parts of the United States. Exhibit No. 17 introduced by protestant is entitled "Eagle Mountain Study" and summarizes the data contained in Exhibits Nos. 15 and 16.

The traffic manager for Western Gillette testified that he made the study based on the lists of freight bills in Exhibits

Nos. 15 and 16 for the weeks specified from the records of the company in the regular course of business and that the company cost at Blythe is 36 cents per hundred weight and at Los Angeles 88 cents per hundred weight making a total of \$1.24 per hundred weight, and that the line haul cost of the company is \$.0258 per ton mile and that the net loss of \$1,342.89 for the specified freight bills outlined in Exhibits Nos. 16 and 17 and as shown by the study in Exhibit No. 17 is correct. The witness testified that any loss of traffic would be deleterious to the operations of Western Gillette.

Findings

The Commission finds and concludes as follows:

1. The area in which applicant seeks to extend its service is sparsely populated and is at the end of a mountain road leading to a mining town, and is subject to desert weather conditions that adversely affect truck transportation.
2. Applicant has sufficient equipment and facilities with which to reasonably perform the proposed interstate and intrastate transportation.
3. Western Gillette is a certificated carrier authorized to serve Eagle Mountain and it provides adequate service to this area in both interstate and intrastate commerce.
4. Recent growth has been small in this area and fluctuates with mining operations, and future growth is indicated only by temporary construction.

5. Applicant has failed to establish that public convenience and necessity require that applicant render the proposed service or any part thereof either in interstate or intrastate and foreign commerce.

6. Certification of the applicant would divert traffic from Western Gillette and have a deleterious effect on its revenues, rates and service to the area.

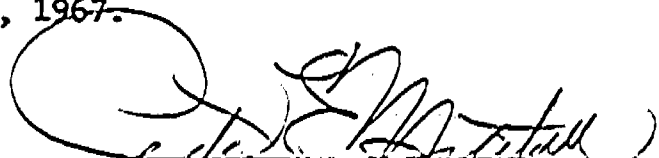
Upon the foregoing findings, the Commission concludes that the application should be denied.


C R D E R

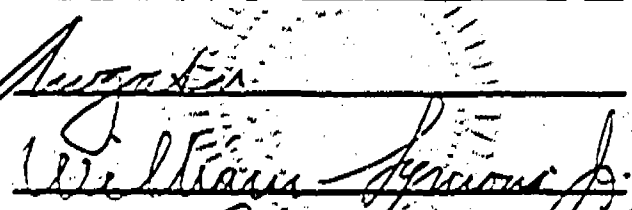
IT IS ORDERED that Application No. 48045 is denied.

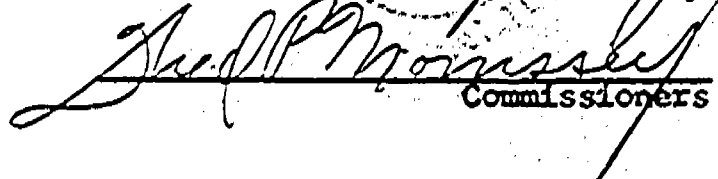
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 22nd day of AUGUST, 1967.



President


Secretary




Commissioners