

Toll Road Operator Files for Chapter 11

South Bay Expressway use below forecasts

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SAN DIEGO — What was heralded in late 2007 as the next big thing in regional commuting — a 10-mile, privately operated toll road in South County — may wind up testing the wisdom of public-private partnerships.

In its court filing this week for Chapter 11 bankruptcy protection, the company that runs the South Bay Expressway cited the ripple effects of a rotten economy. It said the collapse in home prices and the spike in unemployment have hurt its fortunes since the road opened nearly three years ago.

“What’s driving this is that we’ve been severely impacted by the recession,” said Greg Hulsizer, chief executive for South Bay Expressway Ltd. “We find ourselves in a position where in the not-too-distant future, we’re going to run out of financial reserves.”

On average, nearly 22,600 cars travel the road each day, far below initial projections of 60,000. Riders typically marvel at the seemingly empty stretches of pavement, even during peak traffic hours.

While revenue is steady because of rising tolls, the company is falling about \$16 million short each year in what it owes its direct lenders, according to court filings.

Monday’s bankruptcy move raises questions about the fate of the tollway and the private-public partnership behind the \$843 million project.

South Bay Expressway built the road, and it has a long-term management agreement with Caltrans. When the deal was crafted in 1991, it was lauded as a novel way to finance public roads.

“The idea was to see if the private sector could succeed in building highways,” said Marlon Boarnet, a professor of planning policy and design at the University of California Irvine. “But one thing that history is teaching us is that it is more complicated than we thought.”

Hulsizer said his company intends to operate the tollway through bankruptcy reorganization and beyond, even though he doesn’t expect the venture to turn a profit anytime soon. He hopes a judge will give the business some breathing room by allowing it to restructure its debts, perhaps by lengthening its loan-repayment schedule.

“As a valued customer, you will see no change in service,” he promised drivers in an e-mail yesterday. “Your local toll road will still be here for you.”

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In a phone interview, however, Hulsizer said turning over operations to another private business or the company’s lenders may be an option, depending on the outcome of bankruptcy proceedings that could last a year or more.

Many South County commuters said they weren’t surprised by the bankruptcy bid and blamed the operator, saying its decision early last year to boost tolls drove away customers.

Motorists pay \$2.50 to \$4.50 per trip, depending on length. Those with FasTrak, an electronic tolling device, pay \$2 to \$3.85, or 75 cents for trips between Birch Road and East H Street.

South Bay Expressway, a subsidiary of the Macquarie Infrastructure Group of Australia, owes its lenders \$510 million, including \$170 million to the U.S. government.

Some customers complain that the on-ramp toll machines remain hard to use, while those with FasTrak are upset that South Bay Expressway has imposed a minimum monthly transponder fee.

Ken Monk of Bonita said his extended family was drawn to the roadway at first. “They all used it, all of them,” he said.

But once the higher tolls kicked in, they stopped completely. Monk and others said many rush-hour commuters now cut through residential neighborhoods to avoid paying the higher tolls.

Hulsizer does not believe last year's toll hike was unwise. He cited company data showing only a slight decrease in traffic and an uptick in revenue following the increase. The company also noted that it has made improvements to its toll machines in an attempt to address drivers' complaints.

In 1991, Caltrans signed a franchise deal with California Transportation Ventures, the precursor to South Bay Expressway Ltd., that allowed the private outfit to finance, build and run the four-lane road. The agreement runs through 2042.

Hulsizer said the pact and subsequent amendments do not force Caltrans to assume operations if business falters. "The state has no obligation to take over the road," he said. "It's up to us to work it out."

Laurie Berman, chief of Caltrans' San Diego office, declined through a spokesman to address questions about whether her agency may need to step in to operate the road or bail it out.

In a statement, Berman said she does not expect bankruptcy proceedings to affect the public. "Caltrans is monitoring the legal proceedings closely to ensure public interest is protected," she said.

Turning over toll operations to Caltrans may hold little appeal to the agency, given its budget constraints. But a government agency takeover wouldn't be unprecedented.

In 2003, the Orange County Transportation Authority paid \$208 million to buy out the developer of the state Route 91 express lanes because the agreement negotiated by the builder prevented California from widening the overall freeway.

Hulsizer said South Bay Expressway, a subsidiary of the Macquarie Infrastructure Group of Australia, owes its lenders \$510 million, including \$170 million to the U.S. government. He said the money is in the form of direct loans, not bonds, and does not involve an underwriter.

Based on figures provided in the court filing, South Bay Expressway would need to nearly double the number of drivers to keep pace with its long-term debts. Other toll roads across the nation, along with many freeways, also have seen a drop in commuters during the protracted economic slump.

It's not unusual for highway builders to issue rosy projections before opening a major road, said Paul Sorensen, a transportation researcher with the Santa Monica-based RAND Corp.

But that doesn't appear to be completely the case here, he said. "Definitely a lot of the problem has to do with the downturn in the economy," Sorensen said.

The tollway runs from Otay Mesa to Spring Valley. It passes through Eastlake and Otay Ranch in Chula Vista, an epicenter of the local financial meltdown.

The suburban area outpaced most of the county last year in housing foreclosures. Otay Ranch Town Center, the mall that opened in 2006, quickly failed to live up to initial sales projections.

In addition, cross-border traffic from Otay Mesa has been down 30 percent since the start of the recession, Hulsizer said.

When it opened the tollway, South Bay Expressway touted that the option would cut an average of 20 minutes off the daily commute. And at first, the numbers looked promising. Caltrans officials said the road resulted in an 11 percent decrease in morning traffic on nearby Interstate 805 during the beginning months. Average driving speeds on Interstate 805, which largely parallels the toll road, rose from 45 mph to 65 mph.

But as the economy stumbled, overall congestion dipped on South County highways, undercutting the need for the toll road.

Traffic counts also have declined on the Interstate 15 express lanes in North County. Solo motorists are allowed to drive on that network of car pool lanes if they pay a toll.



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South Bay Expressway, L.P., and California Transportation Ventures, Inc. filing (PDF): <http://media.signonsandiego.com/pdf/20100323125bankruptcy.pdf>

Declaration by Anthony G. Davis, CFO of South Bay Expressway, L.P., to support the bankruptcy filing (PDF): <http://media.signonsandiego.com/pdf/20100323125bankruptcy3.pdf>