

Decision No. 8374

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application )  
of COLBERG MOTOR BOATS for auth- ) APPLICATION NO. 6142  
ority to increase freight and )  
passenger rates. )

In the Matter of the Application )  
of DELTA TRANSPORTATION COMPANY )  
for authority to increase freight ) APPLICATION NO. 6169  
and passenger rates. )

Chickering & Gregory, by W.C. Fox, for  
Colberg Motor Boats.  
Sanborn & Roehl, by E.E. Sanborn, for  
Delta Transportation Company.

BY THE COMMISSION-

O P I N I O N

Applicants herein are common carriers of freight and passengers between Stockton and points on the San Joaquin, Sacramento, Mokelumne, Old and Middle rivers and their tributaries, the freight representing 20% and the passenger 80% of this business. The service is more or less specialized, having been established and developed primarily to meet the demands of local growers and shippers for transportation of men and supplies in the so-called San Joaquin Delta District.

Prior to 1918 Colberg Motor Boats was practically the only carrier of passengers and freight between the numerous landings, the exception being an occasional individual carrier competing for a time but, for one reason or another, failing to maintain a permanent service.

The Colberg service has grown from one small boat operated in 1898 to the present fleet of thirteen carrying vessels and four arks, the latter conveniently stationed and used for commissary and sleeping quarters. These properties, together with other necessary equipment in use, have, it is claimed, a reproduction value of \$112,175.00.

About August, 1918, Delta Transportation Company, with a fleet of six new vessels designed for fast express and passenger service and equipped with modern machinery and high power engines, inaugurated a competitive and more extended service materially affecting the revenues of the older utility, but not sufficiently strong to force competition from the field or attract to itself the major portion of the business. This carrier now has seven vessels in commission, including two under lease, - one of the original six having been destroyed by fire in 1919. The five remaining boats owned by the company have a passenger carrying capacity of 100 each, and represent an alleged total outlay of \$90,000.00.

Although the record shows that the service of Delta Transportation Company was established in August, 1918, its tariffs were not filed with the Railroad Commission until April, 1919. Whether the rates and fares carried in the existing schedules of this company are identical with those in effect between August, 1918, and April, 1919, does not appear from the facts developed. Passenger schedules filed by Colberg Motor Boats in December, 1912, are still in effect. Substantially the same passenger fares were filed by Delta Transportation Company in 1919. The present freight rates of applicants differ materially. In a total of 64 commodity items carried in the tariffs of both companies, rates applicable to 30 are identical; in 22 instances the Colberg rates are higher, and in 12 cases lower, than those of the Delta Company. On some important

commodities the difference in rates of the two carriers, for practically identical service, ranges as high as 100%. Colberg Motor Boats charge 25¢ per 100 pounds for seeds in sacks; Delta Transportation Company 50¢ for the same service, while both carriers ask the Commission to authorize a rate of \$1.50 per 100 pounds. Under the Colberg tariff, bread in packages weighing 20 pounds or less carries a rate of 20¢ per package; the Delta Company charges 10¢ for this service, and, again, both utilities request an increase on this commodity to 50¢ per package. These examples are cited to show the extremes existing in the present rate adjustment.

It is proposed in the applications to establish a system of rates and fares that will meet increases in operating costs and reduce the existing deficits. A check of the exhibits submitted with the applications shows that the new passenger rates, would, if authorized, be 100% higher than fares now in effect over the principal routes; in other instances the increase would be from 50 to 200% above existing fares. The proposed freight rates carry even higher percentages of increase, being in the main 100%, but in a few instances are 400% above present rates.

A hearing on the applications was held at San Francisco on October 11, 1920, a number of witnesses testifying as to increased operating costs which have developed from time to time.

These increases related chiefly to fuel and labor, the former having been purchased prior to 1920, in the form of distillate, at 11¢ to 12¢ per gallon, whereas the present cost per gallon, in the form of gasoline, is 27¢. Considerable irregularity in the matter of wages paid to employes was indicated by the testimony, but where certainty as to time and amount of increases, could be fixed by witnesses, they appeared as follows:

	1919	1920
Master mechanic, per month	<u>\$175.00</u>	<u>\$225.00</u>
Captains of vessels, per month,	150.00	175.00
Machinist, per day,	6.00	7.00
Boat Labor " "	6.50	7.50

The Colberg Motor Boats is a fictitious name, and the property is owned and operated by a partnership consisting of W. J. Colberg and Henry Colberg of Stockton. This partnership also operates a shipyard and in the past years no comprehensive system of bookkeeping has been maintained separating the utility from the non-utility business, the result being that the annual reports filed with this Commission are not a true presentation of the actual profits or losses sustained by the boat line common carrier. In order to have a better understanding of the results of this applicant, the Commission had its Auditing Department make a check of the books of the company, beginning with the year 1917. This audit, from the best data available, showed that without any allowances for depreciation or return on investment that the boats earned a profit of \$17,191.01 in 1917; \$3,923.61 in 1918; \$7,813.54 in 1919, and a loss of \$7,220.90 in the first six months of 1920, or a total operating profit for the three and one half year period of \$21,707.26. The claimed depreciation during this time was \$24,596.66 creating an actual loss of \$2,889.40 during this three and one half year period. The company has no bonded or other form of indebtedness and the deductions therefore did not include any return whatever for interest on investment.

Using the actual results for the first six months and estimated for the second six months of the year, the company will operate at a loss of approximately \$20,000.00 under the rates now in effect.

The boats are being operated at about 50% of their capacity, run on regular schedule, and there are from two to

three boats in reserve to be used in case of emergency. The company sets forth in its application that the original cost of all equipment was \$83,375.00 and that the present estimated reproduction value, as heretofore stated, is placed at \$112,175.00. The company owns no real estate or buildings, its entire investment being in boats and arks. It seems apparent that had the operation of the boats been entirely independent of the shipyards and correct account system kept by the partners, that the service to the public would have been materially curtailed following entry of the competing carrier into the field.

The Delta Transportation Company failed to file any reports with this Commission, the only operating data available furnished by the company is in the form of exhibits submitted at the hearing. The exhibits indicate a disastrous beginning in August 1918 and show an operating loss during the first five months of operation, August to December 1918, of \$4,664.03. For the year ending December 31, 1919, there was a loss of \$30,536.62 and for the 8 months of 1920 the loss was \$22,506.89, or a total loss since the beginning of operations on August 1, 1918, of \$57,747.54 and this loss does not include any depreciation or return upon investment.

Under the proposed rates this applicant estimates that a total of \$25,804.97 additional revenue would have been realized for the first eight months of 1920 but that such additional amount less marine insurance and a return upon the investment, exclusive of depreciation, would still be \$9,475.25 less than sufficient to give a full return upon the property investment and provide for the necessary depreciation. A check of the books of this applicant was also made by our Auditing Department and while the segregated amounts differ somewhat from the exhibits filed, the final net result is

practically the same and it will therefore be unnecessary to enter into all of the details of income and expenses. At no time since the commencement of operation in 1918 have the boats of this line operated at a profit. In the year 1919 there was a strike of the boat employees and no service was rendered during August and September. Partial service was resumed in October but only a limited number of boats were operated until January 1, 1920, when the strike was settled and regular service resumed but even had this strike not occurred, the operations would not have been profitable. The boats of this company are like those of Colberg, only carrying a small percentage of their capacity.

The services rendered by the two applicants is essentially for the carrying of passengers, the freight handled is in limited quantity and represents only about 20% of the total revenue.

Here we have one utility voluntarily going into a field well served by a similar utility at rates satisfactory to both itself and its patrons, as indicated by affirmative testimony, by the absence of complaints and by its hitherto profitable operations.

This Commission is asked to untangle a traffic situation which it was unable by reason of limitations of the law to prevent, and to authorize a system of rates guaranteeing a reasonable return on the duplicate investments. The testimony, the exhibits and the reports made by our accountants indicate quite clearly that the service could be given to the public by one operating company with rates but slightly in excess of those now in effect, resulting in a profit to the one organization. It is also clear to the Commission that two companies cannot be properly maintained even at the excessive rates demanded in these applications, it being freely admitted by the Delta Company that if the same volume of business moved at the increased rates as was handled under the rates now in effect by it, that it would still be operating at a heavy loss. The same situation is true of

the Colberg Boats.

In Case No. 564 etc., Decision No. 1778, September 4, 1914.  
(5 Opinions and Orders of the Railroad Commission of California,  
361-366) the Commission employed the following language:

"Two competing lines driving down the rates to a point lower than would otherwise exist now apply to this Commission for an increase in rates on the ground that the duplication of facilities on the San Joaquin River has made it impossible for either line to secure sufficient traffic to make its business profitable. Hence, the rates of both lines must be increased and the measure of the increase is determined by the alleged losses of the two lines. I assume if a third line should enter this transportation field and thereby further divide the business, that it would be urged that the still less heavily laden crafts should be permitted to raise their rates still more because of the unnecessary additional investment. The situation here presented gives us both the evils of monopoly and the evils of competition with none of the advantages of either. A single set of facilities in a natural monopoly field tends to reduce to the minimum the amount of the investment upon which an earning shall be allowed, and, likewise, tends to work to capacity the facilities devoted to the business. Unregulated, however, the agency in control of such a single set of facilities tends to take all it can get from its patrons. On the other hand, duplication of facilities, when actual competition exists, tends to induce those in control of such facilities to take the minimum which it is necessary for them to secure and still carry on the business. In the case before us, however, we have the admitted duplication entailing the use of surplus facilities and the working of these boats at much less than maximum capacity and still we are asked to raise these rates and impose upon the public the burden which is necessary to pay an earning upon the entire property. The public cannot be expected to accept the evils both of competition and monopoly and even though it appeared here that, by reason of the working of these boats at a less than maximum efficiency, an adequate earning were not produced, it would not be necessary for public authority, under well established principles, to permit an increase, because it is the rule that the public may not be required to give a return upon facilities that are not necessary in the service of such public."

We believe the conclusion reached in the Case referred to is sound and should not be deviated from.

It was admittedly impossible, even under the numerous increases proposed, for applicants to operate the competing vessels at a profit and set up proper depreciation for retired

worn out equipment..

It is our conclusion that the application should be denied insofar as the granting of the specific schedule of rates is concerned. We are, however, of the opinion that the increase in operating expenses justifies an increase in the rates now in effect and the applicants will be authorized by appropriate order to increase the rates by 25%, using the tariffs, both freight and passenger, of the Colberg Motor Boats, as a basis. In making the rates, the same will be rounded out to the next full cent. Applicants may also cancel the rates and routes over which no traffic is being handled.

#### O R D E R

Colberg Motor Boats and Delta Transportation Company, common carriers of freight and passengers, having applied to this Commission for an order authorizing rate increases, a public hearing having been held, the matter having been duly submitted, and the Commission being fully apprised in the premises,

IT IS HEREBY FOUND AS A FACT that the existing rates and fares of applicants are unjust and non-compensatory and that the rates herein authorized are just and reasonable.

Based on its order upon the findings of fact herein and upon facts and figures set out in the Opinion preceding this Order,

IT IS HEREBY ORDERED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, that Colberg Motor Boats and Delta Transportation Company be, and they are hereby authorized to publish and file tariffs containing rates 25% higher than those now in effect in the freight and passenger tariffs of the Colberg Motor Boats.



In figuring rates, same may be rounded out to the next full cent.  
 Routes may be rearranged in accordance with the application and  
 where the tariffs contain rates not used, the same may be canceled.

Dated at San Francisco, California, this 26<sup>th</sup> day of  
 November, 1920.

Edwin O. Edgerton  
~~H. H. Bourne~~  
~~Frank D. White~~  
~~H. H. Bourne~~  
Erving Matson  
 COMMISSIONERS.