

Decision No. 28653

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
RICE TRANSPORTATION COMPANY, a)
corporation, for an order of the)
Railroad Commission of the State of) Application
California authorizing it to consolidate) No. 18821
its certificates of public convenience)
and necessity.)

E. J. Bischoff, for applicant.

R. E. Wedekind, for Southern Pacific Company,
Pacific Motor Transport Company and
Pacific Electric Railway, Protestants.

L. R. Kagarise, for Keystone Express System,
Protestant.

BY THE COMMISSION -

O P I N I O N

Applicant, Rice Transportation Company, a corporation, by its application, seeks a consolidation of eight (8) separate operating rights possessed by it with its original right between Los Angeles and certain points in Southern California. The rights have been acquired by applicant over a number of years and operations have been conducted separately under each from a common terminal at Los Angeles and under separate rate structures and time schedules and almost wholly with separate equipment. Applicant now proposes to consolidate and unify the nine rights with through service between any two points in the consolidated system and to enlarge its operations by a lateral right of three miles on each side of the routes proposed in the application for the unified service. Applicant alleges that this will be an operating economy and a means to greater expedition in pick-up and delivery service between communities. The benefit of economy thus obtained by consolidation is to be conferred, in part, upon the public in the reduction of rates from Los Angeles over each of the routes and also by further

reduction of through rates from point to point. For this purpose applicant seeks an in lieu certificate uniting the operations and enlarging them by the lateral rights proposed.

Public hearings thereon were conducted by Examiner Kennedy at Los Angeles.

The record shows affirmatively the public interest in unifying and consolidating the operations under the rate schedules proposed. Applicant proposes for such unified service a new schedule of rates which are the rates now charged for transportation from point to point, or rates less than now charged, in less than ten instances only showing any increase. For through movements applicant proposes to charge a combination of local rates less percentages varying from 20 to 30%, according to class. The proposed delivery and pick-up on each side of the routes traversed for a distance of three miles is included in the rates proposed and the cost of such additional service is to be absorbed by applicant in its rates. The result of the entire structure is to make applicant's rates in a very large area in the immediate north, south and southeast of Los Angeles, extending into Orange county, practically the lowest available rates for such movements by truck including the movements conducted by Pacific Motor Transport Company, which protests the application. In addition, there are graduating class rates descending as quantity increases to the minima of one ton to 10 tons and subject to rate percentage reduction. The rate structure includes 86 main points out of Los Angeles and for additional intermediate points not stated.

The protests of Pacific Motor Transport Company, Southern Pacific Company and Pacific Electric Railway were largely in question of the rates proposed. Pacific Motor Transport Company serves by its express operation practically all of the area served by applicant. This express service is almost

wholly by rail. Protestant Kagarise offered no testimony in support of his protest.

Applicant introduced six shipper witnesses to support its necessity for consolidation and through service. These witnesses were James G. Jeffreys, a distributor of "filac" (renewed motion picture films), Burbank; E. A. Rutledge, Renasalaer Valve Company, Los Angeles; C. A. Alexander, Sanapack Co., distributors of medical and hospital supplies in large quantities, Los Angeles; H. D. Bauman, Manager of Mc Kesson Drug Warehouse, a wholesaler, Los Angeles; Herbert Springwater, operating Dollar stores at Fullerton, Sawtelle and Burbank, and shipping a large proportion of merchandise from the harbor and Los Angeles to these points; and Charles B. Dickinson, Assistant Traffic Manager of Sears Roebuck Co., which supplies its 27 branch stores in Southern California from its main store and warehouse in Los Angeles. These witnesses supported applicant on the ground that the proposed service would speed up distribution, particularly between Los Angeles harbor and points out of Los Angeles and from which point approximately 50% of their shipments are distributed; would relieve them of two minimum charges as is now the case on separate operations of applicant; the general benefit of decreased rates for all these movements and the ability of applicant to deliver to points off its highway routes which it is not now authorized to do. Of these witnesses, however, only two indicated an actual need for deliveries off the highways. These were Mr. Alexander and Mr. Bauman.

A number of off-highway movements have heretofore been conducted by applicant and at rates which were not legally on file with the Commission. Applicant sought to correct this practice by an amendment to its proposed Rule No.55, relating to minimum charges, by establishing minimum charge for certain points as an exception to a general off-route delivery rate .

The basic minima are 35 cents for weight of 25 pounds or less, and 50 cents for weight between 25 and 100 pounds. For instance, on its Route No.6 between Los Angeles, Santa Monica and Venice applicant proposes a minimum off route rate of \$1.50 over which certain institutions have the exception of lower rates - (75 cents and \$1.00). The same is true upon Route No.1 - deliveries on La Habra Heights are subject to a minimum charge of \$1.00. On Route No.12 between La Canada and Sunland a similar minimum charge is tendered with exceptions at a higher rate (\$1.50), for five other points. It is alleged that the points thus selected for increased minimum fare are in the hills and difficult of access and that the rates proposed are the rates which have been charged and paid by patrons of the service heretofore. No testimony was introduced to support the minima mentioned, except that of the applicant's Manager, Mr. H. P. Merry, who explained that there was no other service available to the points delivered to and that the arbitrary charge had been collected as an addition in lieu of the regular rate. Applicant also amended its Rule (1), paragraph A, by striking out the words "fifty feet" in line two, and substituting "three miles"; and amending paragraph C by striking out the words "or off main highway traveled."

The nine operations conducted by applicant are between Los Angeles, Glendale and Burbank; Los Angeles, Tujunga and Sunland; Los Angeles, Santa Monica and Venice, via three routes; Los Angeles and Redondo by two routes, serving all intermediate points, via Inglewood; between Los Angeles and Los Angeles harbor points, without intermediates; between Los Angeles and Compton and certain intermediates; between Los Angeles and Whittier, Fullerton, Anaheim, Santa Ana, Irvine-El Toro; and between Los Angeles harbor and Santa Ana and between Los Angeles Harbor and Long Beach and Santa Monica

via Redondo, El Segundo and Venice. The routes for such service are between the more densely populated areas of Southern California and over routes which, by the lateral extension of three miles on either side asked by applicant, would practically blanket every point south of Los Angeles and Whittier. It does not appear that the testimony introduced by applicant, including its own desire to serve this territory, justifies such lateral enlargement.

Applicant also asks connecting routes without any right to perform transportation service between Burbank and Hollywood Boulevard, via Cahuanga Pass; between Compton and Wilmington, via Torrance; and between Compton and Long Beach; between Compton and Cudahy and between Buena Park and Long Beach, via Artesia, and Orange Avenue. Applicant's routes also propose an operation north from Burbank via San Fernando Road to Roscoe, thence northwesterly to Sunland, connecting with its terminus there in order to traverse Michigan Boulevard. While this connecting route is not set out on the map, it is included in the routing, and there appears no reason why it should not be treated as the other connecting routes for the purpose of minimizing time and mileage.

Applicant also seeks the removal of all weight restrictions between San Pedro harbor and Long Beach. By Decisions Nos. 11913 and 14103, on Application No. 10008, applicant's predecessor, Donovan Transportation Company, was restricted in transporting freight between San Pedro and Long Beach to a weight limit of 500 pounds. We do not believe the testimony justifies any alteration of this right because of consolidation. Only one witness, Mr. Dickinson, testified as to any need for removal of this restriction. Other carriers, however, serve between the points for all practical purposes and there is no showing that their services are inadequate.

It appears from the record that applicant has justified the public necessity for the consolidation and unification of its

operating rights into one system and to that extent only, without disturbing the rights as they exist, by enlargement or further restriction, particularly by the extension of service area three miles on either side of the routes traversed. The consolidation can be made further workable by the granting of connecting routes between operations without any service right and thus put applicant in a favorable economic condition to perform its service over a large metropolitan area to better advantage to the public.

Should applicant so elect, it may, by supplemental application, establish by proper proof public necessity for the lateral rights sought as the instant record does not justify granting its request.

Applicant, Rice Transportation Company, a corporation, is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

ORDER

Rice Transportation Company, a corporation, having made application to consolidate all of its operative rights under certificate of public convenience and necessity heretofore granted by or acquired under authority of the Railroad Commission, and to be granted de novo in lieu of such operative rights, a certificate of public convenience and necessity covering all such operative rights, for redesignation of routes and lateral distances therefrom, and for the establishment of a schedule of rates, rules and regulations, local and through, over such consolidated system, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the estab-
lishment of merged, consolidated and unified service for the
transportation of property as a common carrier, of all the rights
now possessed by applicant under Decision No.25697, dated March 7,
1933, on Application No.16714, Decision No.22990, dated October 23,
1930, and Decision No.22639, dated July 9, 1930, on Application
No.16633, except as herein specifically restricted, with the duty
of providing and rendering through service for any shipment between
any two points on the entire system and between all divisions; and

IT IS HEREBY ORDERED that all the operative rights set forth
above be merged and consolidated with each other and with all rights
held by Rice Transportation Company, each with the other, in one
unified operating right as to each and all, and

IT IS HEREBY FURTHER ORDERED that for the purpose of clarify-
ing the rights so consolidated, a certificate of public convenience
and necessity, de novo, in lieu of all prior grants or rights be and
the same hereby is granted Rice Transportation Company, a corporation,
for transportation of property as a common carrier over all the
routes and to all the points and intermediate points named, and as
shown on Exhibit "A", attached to the application, as follows:

ROUTE NO.1 - Between Los Angeles and Olinda via Whittier
Boulevard and State Highway No.101 through La Habra via
Central Avenue and Brea-Olinda Road to Olinda, serving all
intermediate points including Montebello, Belvedere, Pico,
Whittier, La Habra, Brea and Olinda.

ROUTE NO.2 - Between Los Angeles and Yorba Linda via Telegraph
Road, La Mirada Road, Commonwealth Avenue, Chapman Avenue,
Placentia-Yorba Road and Richfield Road to Yorba Linda,
serving all intermediate points including Bandini, Rivera,
Los Nietos, Santa Fe Springs, La Mirada, Buena Park, Fullerton,
Placentia, Atwood, Yorba and Yorba Linda.

ROUTE NO.3 - Between Los Angeles and Olive via Baker Avenue,
Foster Boulevard, College Avenue, Firestone Boulevard,
Norwalk-Puente Road, Lincoln Avenue, Center Street and Olive
Road to Olive, serving all intermediate points including
Vernon, Maywood, Vinevale, Downey, Norwalk, Artesia, Cypress,
Anaheim and Olive.

ROUTE NO.4 - Between Los Angeles and El Toro via Pacific Boulevard, Long Beach Boulevard, Firestone Boulevard, Stewart-Gray Road, College Avenue, Ocean Boulevard, South Street, Sommerset Avenue, Lincoln Avenue, Hansen Ave., Katella Avenue, Stanton Avenue, Anaheim Road, Euclid Avenue, Verano Street, 17th Street, Main Street, First Street, thence via State Highway No.101 to El Toro, serving all intermediate points including Huntington Park, Bell, Walnut Park, Southgate, Cudahy, Hondo, Hollydale, Clearwater, Eynes, Bellflower, Hansen, Stanton, Garden Grove, Santa Ana, Dyer, Tustin, Irvine, and El Toro.

ROUTE NO.5 - Between Los Angeles and El Modena via Whittier Boulevard, State Highway No.101 to Chapman Avenue to El Modena, serving all intermediate points including Orange, Villa Park and El Modena.

ROUTE NO.6 - Between Los Angeles and Santa Monica via Sunset Blvd., Santa Monica Blvd., and Wilshire Blvd. to Santa Monica, serving all intermediate points including Hollywood, West Hollywood, Beverly Hills, Westwood, West Los Angeles, Sawtelle and Santa Monica.

ROUTE NO.7 - Between Los Angeles and Ocean Park via Washington Boulevard and Venice Boulevard, to Venice, serving all intermediate points including Culver City, Palms, Sherman, Venice, and Ocean Park.

ROUTE NO.8 - Between Los Angeles and El Segundo via West Boulevard, Hawthorne Boulevard, Center Street, Santa Fe Avenue, and Hermosa Avenue to El Segundo, serving all intermediate points including Hyde Park, Inglewood, Lennox, Hawthorne, Lawndale, Redondo, Hermosa, Manhattan and El Segundo.

ROUTE NO.9 - Between Los Angeles and Terminal Island via Alameda Street (Truck Blvd.) to Wilmington, thence Anaheim Boulevard and Badger Ave. to Terminal Island, serving all intermediate points including Watts, Lynwood, Compton, Dominguez, Wilmington and Terminal Island.

ROUTE NO.10 - Between Los Angeles and Point Firmin via Route No.9 to Wilmington, thence Anaheim Boulevard, Wilmington-San Pedro Road and Pacific Avenue to Point Firmin, serving all intermediate points as shown in Route No.9 and also San Pedro, Fort Mc Arthur and Point Firmin.

ROUTE NO.11 - Between Los Angeles and Palos Verdes via Route No.9 to Wilmington, thence Anaheim Boulevard to Redondo-Wilmington Boulevard, Norbonne Avenue, Carson Street, Hawthorne Avenue, and thence Redondo-Wilmington Road to Palos Verdes Estates, serving all intermediate points as shown in Route No.9 and also Harbor City, Lomita, Torrance, WALTERIA and Palos Verdes.

ROUTE NO.12 - Between Los Angeles and Sunland via a circuitous route commencing at city limits of Los Angeles, along San Fernando Boulevard to Glendale, thence along same highway to Burbank, continuing along same route to Roscoe (no service to Roscoe), thence along Sunland Boulevard to Sunland, thence Michigan Boulevard to Tujunga, La Crescenta, La Canada, Montrose and via Verdugo Road and Glendale Road thru Glendale to point of commencement.

ROUTE NO.13 - Between Long Beach and Santa Monica via Anaheim Boulevard, Wilmington-San Pedro Road, Pacific Avenue, thence Gaffey Street to Redondo-Wilmington Boulevard, Norbonne Avenue, Carson Street, Hawthorne Avenue and thence again along Redondo-Wilmington Road to Hermosa Avenue, Highland Avenue and continuing along Venice Speedway to Santa Monica, Harbor City, Lomita, Torrance, WALTERIA, Palos Verdes, Redondo, Hermosa, Manhattan, Playa Del Rey, Venice, Ocean Park and Santa Monica and connecting at Long Beach with Route No.14 and all points served by said route, connecting at Wilmington with Route No.9 and all points served by said route, connecting at El Segundo with Route No.8 and all points served by said route, connecting at Venice with Route No.7 and all points served by said route, and connecting at Santa Monica with Route No.6 and all points served by said route.

ROUTE NO. 14 - Between San Pedro and Santa Ana via San Pedro-Wilmington Road, thence Anaheim Boulevard to Euclid Avenue to 17th Street to Santa Ana, serving all intermediate points including San Pedro, Wilmington, Garden Grove and Santa Ana and connecting at Wilmington with Route No.9 and all points served by said route, connecting at Long Beach with Route No.13 and all points and connections served by said route, connecting at Santa Ana with Route No.4 and all points served by said route and continuing along Main Street out of Santa Ana to Orange and connecting at that point with Route No.5 and all points served by said route, also continuing along Main Street, Santa Ana Boulevard and Los Angeles Boulevard to Anaheim and connecting at that point with Route No.3 and all points served by said route, also continuing along Spadra Road to Fullerton and connecting at that point with Route No.2 and all points served by said route, also continuing along State Highway No.101 to La Habra and connecting at that point with Route No.1 and all points served by said route.

IT IS HEREBY FURTHER ORDERED that such operations be conducted subject to the following restrictions:

No service is to be performed between Cudahy and Long Beach, via Atlantic Avenue, nor between the junction of Compton Avenue and Riverside-Redondo Boulevard and Walteria; nor between Buena Park and Atlantic Avenue; nor between Hollywood and Burbank, via Cahuenga Pass, it being understood that such routes are for transit of trucks, loaded or unloaded, only.

No lateral right may be used unless specifically granted herein.

No property may be transported between Long Beach and Santa Monica and all intermediate points, except in single consignments not exceeding 6000 pounds, nor between Long Beach, San Pedro and Wilmington in either direction, via any route, except in single consignments weighing not more than 500 pounds.

No transportation may be conducted between Long Beach and that portion of the City of Los Angeles lying within the free pickup and delivery zone of applicant in Los Angeles, as defined in applicant's C.R.C. No.10, effective December 20, 1932, and subject to the following conditions:

1. Applicant Rice Transportation Company, a corporation, within twenty (20) days from date hereof, shall file with this Commission its written acceptance of the certificate herein granted, stipulating therein that such certificate is in lieu of all its rights prior to date hereof, now possessed by applicant and that all such prior rights shall be revoked and annulled by this Commission and shall be of no further force and effect.

2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in Exhibit "B", unamended, attached to the application insofar as they conform to the certificate herein granted.

3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be and the same hereby is denied without prejudice.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 18th day of December, 1933.

C. C. Leary
Leon A. Whittell
W. P. C. C.
W. B. Harman
W. B. Harman
COMMISSIONERS.