

Decision No. 21601

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
Alameda Belt Line  
Amador Central Railroad Company  
Arcata & Mad River Railroad Company (The)  
Atchison, Topeka & Santa Fe Railway Company (The)  
Bay Point and Clayton Railroad Company  
Bay Transport Company  
Buckport & Elk River Railroad  
California Transportation Company (The)  
California Western Railroad & Navigation Company  
Camino, Placerville & Lake Tahoe Railroad Company  
Central California Traction Company  
Delta Finance Company, Ltd.  
Diamond & Calder Railway  
East Bay Street Railways, Ltd.  
Great Northern Railway Company  
Harbor Belt Line Railroad  
(an unincorporated agency)  
Holton Inter-Urban Railway Company  
Howard Terminal  
Indian Valley Railroad Company  
Los Angeles Junction Railway Company  
Marine Service Corporation  
McCloud River Railroad Company  
Modesto and Empire Traction Company  
Napa Transportation & Navigation Company  
Nevada County Narrow Gauge Railroad Company  
Northwestern Pacific Railroad Company  
Oakland Terminal Railroad Co.  
Outer Harbor Terminal Railway Company  
Pacific Coast Railway Company (California)  
Pacific Electric Railway  
Petaluma & Santa Rosa Railroad Company  
Quincy Railroad Company  
Sacramento Navigation Company  
Sacramento Northern Railway  
San Diego & Arizona Eastern Railway Company  
San Francisco, Napa & Calistoga Railway  
Santa Maria Valley Railroad Company  
Sierra Railway Company of California  
(Charles H. Segerstrom, Receiver)  
Southern Pacific Company (Pacific Lines)  
South San Francisco Belt Railway  
Stockton Terminal & Eastern Railroad  
Sunset Railway Company  
Tahoe Transportation Company  
(Matt Green, Lessee)  
Tidewater Southern Railway Company  
Tonopah & Tidewater Company, Ltd.  
Trona Railway Company  
Union Pacific Railroad Company  
Ventura County Railway Company  
Visalia Electric Railroad Company  
Western Pacific Railroad Company (The)  
(T.M. Schumacher and Sidney M. Ehrman, Trustees)  
Yosemite Valley Railroad Company  
(Howard C. Bonsall, Trustee)  
Yreka Western Railroad Company  
(O. G. Steele, Receiver)

ORIGINAL

Application

No. 21601

on behalf of themselves and all other carriers )  
similarly situated, for an order authorizing an )  
increase in certain freight rates and charges. )

BY THE COMMISSION:

OPINION AND ORDER

By application filed November 22, 1937, the above named common carriers of property seek authority under Sections 15, 24(a) and 63(a) of the Public Utilities Act (1) to establish increased rates for intrastate transportation of certain so-called "basic" commodities as described in Appendix I of said application; (2) to establish increased rates for intrastate transportation of certain commodities described in Appendix II of said application, on which similar increases were made during the months of April, May and June, 1937, in interstate traffic; and (3) to establish increased rates on the commodities and to the extent indicated in Appendix III of said application, those being the same commodities and increases which applicants have filed with the Interstate Commerce Commission (subject to complaint and suspension) under authority of Third Supplemental Report on Further Hearing in Ex Parte 115, 223 I.C.C. 657, decided October 19, 1937. Applicants' further request that publication of said increases on five (5) days' notice to the Commission and to the public be permitted, and that relief from the long and short haul provisions of Section 24(a) of the Public Utilities Act, to the extent necessary to effect the proposed increases, be authorized.

Applicants allege they are not now earning a fair return and that in fact some of them are not even earning fixed charges. The distressed financial condition of the short-line rail carriers and of the inland water carriers is, they assert, a matter of common knowledge. Applicants allege, moreover, that they are confronted

with substantial increases in operating expenses, due principally to an increased level of wages, increased prices of materials and increased taxes. They state that while the increased rates here sought would improve their financial condition and are essential if applicants are to maintain adequate facilities and service, such increased rates would still be far short of sufficient to yield a fair return on the value of the property devoted to public use. They express the belief that increases of the volume here proposed will not produce rates that are unreasonable for the services covered thereby, will not bring about an undue disturbance in business conditions and will not result in a loss of traffic to other forms of transportation.

It appears that the increases sought were previously in effect on both interstate and intrastate traffic as temporary emergency surcharges, that authority for their maintenance expired December 31, 1936, and that said increases were accordingly cancelled as of that date.<sup>1</sup> Thereafter, during the months of April, May and June, 1937, certain of the increases which were not affected by outstanding maximum rate orders of the Interstate Commerce Commission were re-established on interstate traffic. In its recent decision in Ex Parte 115, supra, the Interstate Commerce Commission authorized the carriers to disregard outstanding maximum rate orders and to (1) re-establish other increased rates on certain so-called "basic" commodities, and (2) republish the remainder of the increased rates subject to complaint and suspension. The purpose of the instant application ~~apparently~~ is to enable the carriers to bring their in-

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<sup>1</sup> The temporary emergency charges were authorized by this Commission on intrastate traffic in Decision No. 27889 and supplemental orders thereto, in Application No. 19610.

trastate rates into conformity with those now in effect on interstate traffic, or authorized to be made effective by the Interstate Commerce Commission in Ex Parte 115, supra. Applicants agree that in the event any of the increased rates applying on interstate traffic are suspended by the Interstate Commerce Commission such increased rates will, to the extent they are applicable on intrastate traffic, be withdrawn.

Ex Parte 115 (reopened) was handled as a cooperative proceeding before the Interstate Commerce Commission and representatives of state commissions. Extensive hearings were had at San Francisco and Los Angeles. In view of the decision entered in that proceeding, of the well-known distressed financial condition of intrastate rail and water carriers generally, and of their urgent need for increased revenue if the public is to be assured of adequate transportation service, we are of the opinion that this is not a matter in which a public hearing is necessary, that the proposed increases are justified and that the application should be granted.

It will be understood that any shipper or group of shippers may properly challenge by complaint and in the usual manner the reasonableness or lawfulness of any individual increases herein authorized, should such increases be regarded as unreasonable or in any other manner unlawful. The carriers before accepting the benefits of this order, and before filing the increased rates authorized herein, will be required to agree that they will never urge before this Commission, in any reparation proceeding under Section 71 of the Public Utilities Act, or in any other proceedings, that the opinion and order herein has found that any individual rate authorized is reasonable.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that applicants be and they are and each of them is hereby authorized to establish on not less than five (5) days' notice to the Commission and to the public the increased rates and charges proposed by the application herein, to the extent that said increased rates and charges were lawfully on file with this Commission and in effect on December 31, 1936.

IT IS HEREBY FURTHER ORDERED that applicants be and they are hereby authorized to depart from the provisions of Section 24(a) of the Public Utilities Act, to the extent necessary to effect the increases herein authorized.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that no applicant in this proceeding will ever urge before this Commission, in any proceeding under Section 71 of the Public Utilities Act, or in any other proceeding, that the opinion or order herein constitutes a finding of fact of reasonableness of any particular rate; and the filing of rates pursuant to the authority herein granted will be construed as consent by the respective carriers to this condition.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of

Nov, 1937.

Walter L. Brown  
John A. Sullivan

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Ray L. Rice  
Commissioners