

Decision No. 30612

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
upon the Commission's own motion,
into the rates, charges, contracts,
classifications, rules and regula-
tions of AMERICAN TOLL BRIDGE COM-
PANY covering its operation of the
toll bridge over the Carquinez
Straits between the Counties of Contra
Costa and Solano.)

Case No. 4259

ORIGINAL

Dunn, White & Aiken, by Ben R. Aiken; Breed, Burpee & Robinson, by Harold C. Holmes, Jr.; and Thelen & Merrin, by Max Thelen, for the American Toll Bridge Company.

Brobeck, Paleger & Harrison, by James S. Moore, for the Dumbarton Bridge Company.

Orrick, Falmer & Dahlquist, by George Herrington, and Garret McEnerney, for the San Francisco Bay Toll Bridge Company.

John J. O'Toole, City Attorney, and Dion R. Holm, Assistant City Attorney, for the City and County of San Francisco.

R. L. Chamberlain, for the Attorney General of the State of California.

W. Johnson, for T. M. Carlson, City Attorney of the City of Richmond, for the City of Richmond.

Louis Purcell, for the Crockett Signal.

Nathan F. Coombs and Charles Gray, for the Napa Chamber of Commerce.

Edwin G. Wilcox and Walter A. Rohde, for the San Francisco Chamber of Commerce.

Harry A. Barnes, for the Martinez Chamber of Commerce.

Irvin B. Wright, for the California State Chamber of Commerce.

N. E. Keller, for the Pacific Portland Cement Company.

J. E. Costello, for the Sperry Flour Company.

C. C. Carleton, for the California Toll Bridge Authority.

C. C. Carleton, by Robert E. Reed and Frank B. Durkee, for the Department of Public Works of the State of California.

Henry Sweet, for the San Leandro Chamber of Commerce.

Frank O. Bell, for the Vallejo Chamber of Commerce.

P. M. Sanford, for the Richmond Chamber of Commerce.
J. Jorgensen, for the Pittsburg Chamber of Commerce.
T. H. Wilson, for the Sonoma Valley Chamber of Commerce.
William L. Bush, for the Contra Costa County Development
Association.
W. B. Stafford, for the Antioch Chamber of Commerce.
T. G. Differding, for the Oakland Chamber of Commerce.

RILEY, Commissioner.

O P I N I O N

In this proceeding, instituted by the Commission on its own motion, the Commission is called upon for the first time to determine the reasonableness of rates charged by this toll-bridge corporation.

By Chapter 896, Statutes of 1937, effective August 27, 1937, the Public Utilities Act of the State of California was amended so as to include toll-bridge corporations as public utilities subject to regulation by the Railroad Commission.

Sections 2(dd) and 2(ee), as amended by Chapter 896, Statutes of 1937, read--

(dd) The term "public utility", when used in this act, includes every common carrier, toll-bridge corporation, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof. (Amended 1937, ch. 896).

(ee) The term "toll-bridge corporation", when used in this act, includes every private corporation or private person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any bridge or appurtenance thereto, used for the transportation of persons or property for compensation in this State. (Added 1937, ch. 896.)

The Proceeding:

This case involves the rates charged by the American Toll Bridge Company for traffic over its so-called Carquinez Bridge.

The proceeding is unique in the history of regulation by this Commission of the affairs of public utilities under its jurisdiction. It differs from other rate proceedings heretofore conducted by the Commission in that there is involved in this case a public utility whose operating life as such will terminate on or about March 5, 1948, the date of the expiration of the franchise under which it conducts its operations. On that date the possession of the properties will pass from the company to the Counties of Contra Costa and Solano, without compensation to the company. Further, here is involved a utility which was organized and for more than half its franchise life, has conducted its operations outside the jurisdiction of this Commission. For these reasons it would seem that a departure from the usual methods and procedure is warranted.

When Chapter 896 became effective the Commission on its own motion instituted a general investigation, Case No. 4244, into the affairs of all toll-bridge companies thus placed under its jurisdiction. An initial hearing was held in both cases on October 26, 1937, at which time Case No. 4244 was dropped temporarily from the calendar, thus leaving for consideration and determination the issues presented in Case No. 4259.

At the outset, counsel for American Toll Bridge Company, which, in addition, owns and operates a toll bridge, hereinafter referred to as the Antioch Bridge, across the San Joaquin River between a point near Antioch, Contra Costa County, and Sacramento County, entered a motion for both proceedings, so far as American Toll Bridge Company is concerned, to be consolidated for hearing and decision, so that the rates of both Antioch and Carquinez Bridge might be considered at this time. While it is true that in the development of the record in Case No. 4259 considerable evidence and testimony was introduced relating to the so-called Antioch Bridge, it has been decided to limit

this decision and the order herein to Case No. 4259, namely, to the operation of the Carquinez Bridge of the American Toll Bridge Company, hereinafter sometimes referred to as the respondent.

Accordingly, the motion of counsel for respondent will be denied. However, in fixing rates in this decision for certain traffic over the Carquinez Bridge, consideration will be given to the effect of such rates on the company as a whole.

Historical Review:

In order that a complete picture might be presented of the bridge operations under review, a brief historical reference should be made.

It appears that on February 5, 1923 a 25-year franchise (Ordinance No. 171) was granted by the Board of Supervisors of Contra Costa County to Rodeo-Vallejo Ferry Company⁽¹⁾ providing for the construction and operation of the Carquinez Bridge. Thereafter, those in control of the affairs of Rodeo-Vallejo Ferry Company, on or about May 28, 1923, caused the organization of American Toll Bridge Company, respondent herein, and on July 2, 1923 caused the transfer to it of the rights to construct and operate the bridge. Said ordinance contains the following provision:-

"IT IS HEREBY ORDERED that at the expiration of term hereby granted the title to said toll bridge shall revert to the counties of Contra Costa and Solano".

Also on July 2, 1923 were transferred to respondent the rights to construct and operate the Antioch Bridge which previously had been acquired by Delta Bridge Corporation⁽²⁾ by a 25-year franchise granted by the Board of Supervisors of Contra Costa County on June 4, 1923.

Construction work was started on the Carquinez Bridge during

(1) Rodeo-Vallejo Ferry Company at that time was engaged in operating ferries as a public utility between Shortway, Contra Costa County, and Morrow Cove, Solano County.

(2) Delta Bridge Corporation was organized under the laws of the State of California on or about December 21, 1922. Its outstanding stock (\$500. par value) was acquired by respondent on July 2, 1923.

April 1923 and on the Antioch Bridge during March, 1924. The Antioch Bridge was opened to traffic on January 1, 1926 with temporary approach roads which were not completed until July 1927. The Carquinez Bridge was opened to traffic on May 21, 1927 with a temporary fender system at the base of the center pier. The permanent fender was completed during December 1930.

The respondent company in addition to the two bridges now holds all the outstanding stock of the Rodeo-Vallejo Ferry Company, which at present owns certain water front lands and other real estate and improvements, and all the outstanding stock of Martinez-Benicia Ferry and Transportation Company, a corporation owning and operating ferries as a public utility between Martinez and Benicia. It also owns approximately 368,000 shares of stock of American Toll Bridge Company of California.

Financing of Properties:

Respondent was organized under the laws of the State of Delaware on or about May 28, 1923 with an authorized capital stock of \$5,000,000 divided into 5,000,000 shares of the par value of \$1.00 each, all of one class. At the same time there was organized, also under the laws of the State of Delaware, a separate corporation named American Toll Bridge Company of California, hereinafter referred to as the holding company.

An examination of respondent's records show that on July 2, 1923 it issued all of its authorized capital stock, except \$1,000. previously issued to its incorporators, to the holding company, in exchange for stock of Rodeo-Vallejo Ferry Company and Delta Bridge Corporation, and for certain real estate, contracts and franchise. The record shows that the holding company in receiving the stock of respondent agreed to donate \$1,000,000. of such stock back to respondent and to sell \$1,500,000. thereof and to donate the receipts to respondent. It appears the plans of those in control of the two corporations called for the public sale of these two blocks of stock at a price of \$2.00 a

share, although the par value was \$1.00 a share, and the use of forty cents for each share sold to pay commissions, as permitted by the Commissioner of Corporations, leaving a net price to the company of \$1.60 a share.

Although some stock was sold at \$2.00 a share, the company did not sell all of the \$2,500,000. to the public, as originally planned. In December of 1925 it issued and sold, at 90, \$4,500,000. of first mortgage 7% bonds and \$2,000,000. of second mortgage 8% bonds to complete the cost of its construction. Both issues were dated as of April 1, 1925, maturing on April 1, 1945. Up to the middle of 1935 the company had reduced its capital stock to \$3,719,593.⁽³⁾ and its bonded debt to \$4,120,000. During 1935 it refunded its then outstanding seven and eight percent. bonds through the issue of \$4,300,000. of first mortgage 5.5% bonds. The increase in the bonded debt was made in order to provide in part the cost of calling the then outstanding bonds and to pay expenses incident to the issue of the new bonds. The latter issue has been reduced to \$3,491,500. as of October 31, 1937.

The record shows the company's reported investment in its Carquinez Bridge structure, exclusive of lands, at \$7,863,451.17. It appears that the company's earnings, over the period of its existence, have been sufficient to enable it to set up a reserve for depreciation of the Carquinez Bridge of \$2,742,443.34⁽⁴⁾ and other reserves of \$1,055,313.48, and to accumulate a surplus of \$419,123.92, as of October 31, 1937.

(3) In addition to the outstanding stock there is stock in the amount of \$57,280., represented by the reserve for contingencies, which is subject to re-issue. If and when such stock is re-issued the total amount outstanding will be increased to \$3,776,873.

(4) The reserve has been accumulated on the 6% sinking fund method based on the operating life of the bridge under the franchise which is designed to return the cost of the bridge upon the expiration of the franchise.

Revenues:

A complete record has been developed of the revenues and expenses of the company since the inception of its operations up to October 31, 1937.

Exhibits filed in the proceeding show the operating revenues and the net operating revenues after deducting operating expenses, local taxes and an allowance for depreciation, for the Carquinez Bridge, as reflected in the company's books as follows:-

<u>Period</u>	<u>Corporate Revenue</u>	<u>Net Operating Revenue</u>
1927 (from May 21)	\$ 637,658.97	\$ 272,777.07
1928	986,570.91	339,601.72
1929	1,021,306.90	599,867.05
1930	1,193,727.47	714,552.05
1931	1,152,297.04	632,972.74
1932	975,911.13	460,730.17
1933	917,117.25	395,716.84
1934	959,228.97	448,091.77
1935	1,061,172.77	424,420.61
1936	1,306,191.01	739,908.00
1937 (To October 31)	1,511,553.21	759,156.15

Cost of Properties:

A considerable amount of evidence and testimony was received of the cost or value of the bridge properties. The various figures and conclusions may be summarized as follows:-

Book cost of bridge structure (Exhibit 1)		\$7,863,451.
Estimated reasonable cost of construction (Exhibit 16)		6,877,312.
Cost to reproduce new (Exhibit 16)		6,340,844.
Original cost (Exhibit 117):		
Bridge structures	\$7,863,451.	
Land	66,835.	
Furniture and fixtures	<u>19,668.</u>	7,949,954.
Adjusted original cost (Exhibit 117)		8,532,622.
Reasonable historical cost (Exhibit 117)		8,139,307.
Reproduction cost new (Exhibit 113)		8,743,251.

However, there are included in the book costs certain items which appear to be more properly chargeable to other than capital accounts and certain items concerning which no information was available,

approximating \$575,000. Further, the book figure includes certain expenditures for organization purposes whose reasonableness might well be questioned.

Estimated Revenue:

The company's schedule of rates at present provides for a toll of 60¢ per car and 10¢ per passenger.

Estimates of future revenue and traffic, based on an assumed toll of 50¢ per car and five passengers and 5¢ for other passengers were placed into the record by witnesses for the Commission and the respondent.

In Exhibit 23 the Commission's witness estimated that with such a revision in the rates the volume of traffic during 1937 would have been increased 13.5% and that such an increase, based on the 1937 traffic, would have produced for 1937 an amount available for return on investment of \$551,946.

In Exhibit 134 the respondent's witness estimated that with the same revision in rates an induced traffic of 11% might be expected which should produce for the year 1938 from the operation of the Carquinez Bridge a net income, before allowances for federal income and state franchise taxes, of \$629,799. An allowance for these items, based on the estimated revenue for 1938, would produce a net amount during 1938 available for return of approximately \$575,000. At the closing hearing in this matter, however, this witness modified his estimates and concluded that an increase of 13.5% might be expected which would produce an average annual income of approximately \$14,550. in excess of that appearing in his exhibit, bringing the total estimated net return up to approximately \$590,000.

A reduction in rates will stimulate the traffic over the bridge, although the extent, of course, cannot be estimated with exactitude. The results estimated for the 1938 revenue should produce a return of

approximately 7.5% on the investment in the bridge structure. When tested upon the bases usually followed by the Commission such a rate of return is reasonable for this particular company, considering the unusual circumstances under which its properties were constructed and have been and are operated. However, for the time being, in order that the company may be assured of financial stability and to guard against possible inaccuracies in the estimate of induced traffic, by reason of rate reductions, a rate slightly higher than that proposed should be authorized.

Accordingly, I am of the opinion that a toll of 45¢ per car and of 5¢ for each passenger should be authorized for operations over the Carquinez Bridge. Such a rate should enable the company to meet its requirements under its trust indenture and amortization and dividend requirements.

In making this order, I wish to place respondent upon notice that the Commission may in the future re-open this proceeding when experience has developed further data of traffic moving over the bridge under the proposed rates. The truck, freight and other rates now appearing in the company's schedule of charges will have consideration in Case No. 4244. This order is not intended to change, or to be construed as approving, such other rates.

I herewith submit the following form of order:-

ORDER

Public hearings having been held in the above entitled matter and the Railroad Commission having given full and careful consideration to the record before it and being of the opinion that the present rates of American Toll Bridge Company, referred to in this order, are unjust and unreasonable insofar as they differ from the rates herein prescribed which are hereby found to be just and reasonable rates, therefore,

IT IS HEREBY ORDERED that American Toll Bridge Company shall file with the Commission, effective on and after March 1, 1938, a sup-

plement to its tariff heretofore filed with the Commission on September 1, 1937 so as to change the items in its schedule of charges reading as follows:-

Passengers (7 years of age and older) on foot or in vehicles	\$.10
Auto only	.60

so as to read--

Passengers (7 years of age and older) on foot or in vehicles	.05
Auto only	.45

IT IS HEREBY FURTHER ORDERED that American Toll Bridge Company shall, on or before the 25th day of each month, file with the Commission a report showing its balance sheet as of the close of the preceding month, an income and profit and loss statement for the preceding month, together with a detailed statement of revenues and expenses, and a statement of the traffic moving over each bridge, segregated so as to show the number of automobiles, the number of passengers, the number and classification of trucks, the tonnage of freight and the number and kinds of other vehicles, together with the gross revenue from each class of traffic.

IT IS HEREBY FURTHER ORDERED that unless otherwise directed, the order herein shall become effective twenty(20) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 8th day of February, 1938.

Walter W. Moore

Frank R. Quinn

Ray & Riley
Commissioners