

Decision No. 21832

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
RAILWAY EXPRESS AGENCY, INCORPORATED,)
a corporation, for a finding under)
Section 63 (a) of the Public Utilities)
Act that certain proposed increased)
rates for the transportation of news-) Application No. 21832
papers between certain points within)
the State of California are justified)
and an order authorizing the establish-)
ing of said rates.)

BY THE COMMISSION:

Appearances

Pillsbury, Madison & Sutro, by Hugh Fullerton,
for Applicant.
Grove J. Fink, for the San Francisco Examiner,
Oakland Post Enquirer, San Francisco
Call-Bulletin, Los Angeles Examiner,
Los Angeles Evening Herald-Express.
Calkins, Hagar, Hall & Linforth, by John U.
Calkins, Jr., for the Daily News Com-
pany, Ltd.
Grove J. Fink and John U. Calkins, Jr., for the
McClatchey Newspapers.
Robinson, Price & MacDonald, by Harry L. Price,
for the Oakland Tribune.
Percy E. Towne, for San Francisco Chronicle and
the Los Angeles Times.
W.G. Stone, for Sacramento Chamber of Commerce.

O P I N I O N

Railway Express Agency, Incorporated,¹ seeks authority to
readjust its rates for the transportation of newspapers within
California, the readjustment to result in both increases and re-
ductions. Public hearings were held at San Francisco before Ex-

¹ Railway Express Agency, Incorporated, is an express corporation,
engaged in transporting express shipments throughout the United
States. It employs railroads, principally, as its underlying
carriers.

aminer Preston W. Davis, and the matter was submitted on briefs.

Applicant's present rates for the transportation of newspapers within California are (1) rates ranging from 12 cents to 20 cents per 100 copies, applying to transportation for specified publishers from certain publication points to all other points in the State, (2) a rate of 6 cents per 100 copies for transportation for specified publishers from San Francisco to Sausalito, from Sausalito to nearby points, and between San Francisco and East Bay points, this rate including only a limited amount of handling service by the carrier, (3) a similarly restricted rate of 2 cents per 100 copies for transportation for a single specified publisher between San Francisco and Oakland, and (4) a rate of 1-cent per pound applying in instances where the specific rates referred to are not applicable. In lieu of these rates, applicant proposes to establish (1) a rate of one-half cent per pound for transportation between all points within the State for any and all publishers, and (2) a restricted service rate of $16\frac{2}{3}$ cents per 100 pounds for transportation for any and all publishers between San Francisco and East Bay points and between Sausalito and the same points from and to which the 6 cents per 100 copies rate is now in effect.

In justification of the proposed substitution of a "per pound" for the "per 100 copies" basis, it was shown that the weight per copy of newspapers fluctuates widely from day to day and from year to year, and that, moreover, this weight varies substantially as between different publications. It was asserted, also, that portions or supplements making up complete copies are often shipped separately, but require the same service as though each constituted a complete copy. Under these conditions, it was claimed, the cents per pound basis would give much greater recognition to the cost of performing the service and the value of the service to the shipper than does the present method of stating rates, and, more-

over, would remove alleged discriminations now existing between publishers of large and small newspapers.²

In addition, exhibits and testimony were introduced showing that rates for practically all other commodities are stated in applicant's tariffs on a weight basis, except in a few instances where the weight of the commodity is constant; that applicant's rates for interstate transportation of newspapers and for intrastate transportation of newspapers in other parts of the United States are similarly stated; and that, with minor exceptions, all other common carriers in California maintain newspaper rates on a weight basis. It was asserted that newspaper publishers must weigh each edition for the purpose of computing charges on interstate shipments and shipments via other common carriers, and that, hence, the basing of Railway Express Agency's rates on weight rather than on the number of copies would entail little additional clerical burden on the part of shippers.

In justification of the proposed adjustments in the volume of the rates, it was claimed that the rates sought to be increased were inadequate and noncompensatory. It was shown in this connection that a rate of 60 cents per 100 pounds was maintained prior to 1910 for the transportation of newspapers within California, but that, in that year, this rate was converted to a rate in cents per 100 copies, based on the average weights of the several publications at that time. The resulting rate was made applicable only to certain San Francisco, Oakland and Los Angeles publishers, it was explained, but related rates were added later for various other publishers. Subsequently, the restricted service rates of 2 and 6 cents per 100 copies, hereinbefore referred to, were pub-

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Florida Railroad Comms. vs. Aberdeen & Rockfish R.R.Co., 177 I.C.C. 735, was cited in support of the proposition that weight is the unit which best gives recognition to cost of service and value of service. In that decision, the respondent carriers were required to restate rates for the transportation of vegetables on a weight basis in lieu of the package basis previously maintained.

lished. The contention was made that operating expenses, as well as the average weight per copy of newspapers, had increased materially since 1910,³ but that newspaper rates had not been increased proportionately.

Extensive rate exhibits were submitted comparing the sought rates with those maintained by Railway Express Agency, Inc. and other common carriers for interstate transportation of newspapers and for intrastate transportation in other parts of the United States. These exhibits show that, in general, the sought rates are no higher than those maintained by many other common carriers for intrastate transportation within California; by applicant for intrastate transportation within many other states; and by various common carriers by railroad for transportation of newspapers in other territories.

Operating witnesses compared the manner in which newspapers are handled with the handling of ordinary express traffic. They asserted that, except for the fact that no pickup or delivery service is rendered in connection with newspapers and the fact that this traffic requires more expeditious handling, newspapers are handled similarly to other express traffic. It was argued that, under the circumstances, existing rates for the transportation of newspapers were clearly unduly low in comparison with applicant's rates for the transportation of general merchandise.

In so far as value of the service was concerned, applicant's witnesses pointed out that the retail price of certain newspapers had increased in recent years and showed, moreover, that

³ Applicant stated on brief that newspaper rates had been increased 22 per cent since 1910, as a result of horizontal increases authorized by the Interstate Commerce Commission and this Commission, whereas rates on other express commodities had been increased approximately 44 per cent.

rates higher than those here sought were being paid by the publishers to competing carriers.

In addition, it was testified that whereas the newspaper publishers formerly employed Railway Express Agency, Incorporated, almost exclusively to perform their distribution, other forms of transportation had since been substituted and applicant was being employed only for "stand-by services" where truck transportation, for example, was not available or practicable. Witnesses stated that the volume of intrastate newspaper traffic enjoyed by applicant had dwindled to a small percentage of that previously handled while the interstate traffic (in which truck carriers do not engage to any great extent) as well as the newspaper traffic handled by other intrastate carriers, had increased.

Applicant pointed out that substantial reductions would result under its proposal in instances where the general rate of 1 cent per pound is now applicable. While conceding that little, if any, traffic was moving under the 1-cent per pound rate⁴ the hope was expressed that the reduction would make the service attractive to publishers in the smaller communities who are now using other means of distribution.

Several newspaper publishers protested the granting of this application. At the close of applicant's presentation they moved that the proceeding be dismissed, on the ground that no showing sufficient to justify the granting of the authority sought had been

⁴ According to applicant, practically no traffic moves under the rates of 1 cent and 2 cents per pound, inasmuch as the special rates apply to transportation for all of the larger publishers and as the smaller publishers do not have a sufficient range of circulation to require applicant's service. Neither do the transbay rates move a great deal of traffic at the present time, applicant states, inasmuch as the limited number of ferry schedules available do not meet the publishers' needs. The record does not show to what extent traffic moves under the 6-cent rate from Sausalito to the adjacent territory.

made. In addition, protestants offered testimony in their own behalf, relative to the effect which the increased rates would have on their distribution policies. In support of their motion for dismissal, protestants contended applicant had failed to show that the sought rates were consistent with the cost of performing the service and pointed out that many items of increased costs relied upon by applicant in justification of the rate increase were not incurred in the transportation of newspapers. As to the anticipated effect of the increased rates, protestants stated that they would be forced to extend their use of proprietary and contract trucking operations and introduced cost studies for the purpose of showing that this could be accomplished profitably.

Other objections to the granting of the application were advanced on brief. Protestants asserted (1) that the public has a vital interest in the dissemination of news at the lowest possible charge and that, therefore, newspapers should be accorded low transportation rates, (2) that applicant has advertised that reduced express rates have been placed in effect, whereas it is here seeking increases, (3) that by reason of infrequent schedules it offers, the service of Railway Express Agency, Incorporated, is of limited value to shippers of newspapers, (4) that, inasmuch as applicant believed its newspaper rates to be unduly low for many years but took no action, it is now estopped from seeking an increase, (5) that applicant is inconsistent in seeking increases as to certain shippers and reductions as to other, (6) that the change from the "per copy" to the "per 100 pounds" basis would place an undue clerical burden on shippers.

In so far as the proposed use of a "per 100 pounds" rather than a "per 100 copies" method of stating rates is concerned, it seems evident that the cost of transporting newspapers is more

closely related to the weight of the bundles than to the number of copies in them. It is not disputed that the weight per copy of newspapers fluctuates widely from day to day and, moreover, that there are wide variations between the average weights per copy of different publications. Under these circumstances, the computation of charges on a weight basis would appear to give far greater recognition to the cost of performing the service and to the value of the service to the shipper. The added clerical expenses which the shippers would be required to incur in ascertaining billing rates would, it is believed, be far out weighed by the advantages which would accrue to the shippers from a nondiscriminatory rate basis.

In so far as the proposed increases in the volume of existing rates are concerned, however, it cannot be said on this record that the increased rates sought have been shown to be necessary or justified. Applicant itself estimates that the proposed rates would return, in the aggregate, 80 per cent more revenue than would accrue under the rates presently in effect. In several instances, however, the proposed rates represent an increase of more than 100 per cent and in at least one instance an increase of more than 300 per cent would result. Manifestly, increases as extensive as these should be authorized only when the need therefor is acute and the evidence in support thereof strong. Applicant has shown that rates of substantially higher volume than those here sought are maintained for transportation of many other commodities in the same general territory and that rates for the transportation of newspapers by other carriers in the same general territory as well as in many other parts of the United States are similar to those here sought. On the other hand, the record discloses only in a general way the transportation characteristics of the commodities with which the existing newspaper rates were compared and the conditions

attending the transportation of newspapers under the compared rates of other common carriers. For example, there is no information in the record concerning the volume of traffic moving under the compared rates; the average length of hauls to which those rates apply; or the traffic conditions encountered thereunder. These deficiencies preclude the acceptance of the compared rates as proper measurements of the level of rates which should here be authorized.

Although, for the reasons stated, the rates sought cannot be said to have been justified, the record is persuasive that due to the reduction in traffic volume and to increases in the average weights of newspapers and in operating expenses, applicant's existing rates are, in general, unduly low. Information is not available in this record from which rates in cents per 100 pounds could be developed which would give applicant a moderate revenue increase and yet not result in severe increases in the transportation charges required to be paid by the larger newspapers. To accomplish this purpose, it would appear necessary that rates be graduated according to the quantity tendered to the carrier at one time or over a given period of time and, possibly, that they be related to the distance over which the transportation is performed. An adjustment of this nature would require an analysis of traffic statistics which are not in this record and a consideration of practical billing problems concerning which no evidence was introduced.

The record indicates that applicant is transporting portions of newspapers on different days, assessing charges as though the several individual portions constituted one newspaper. The service performed by applicant in transporting individual supplements does not appear to be materially different from the service performed in transporting individual newspapers and it appears, therefore, that rates stated in "cents per copy" should be made to apply on portions of newspapers when shipped separately.

Upon consideration of all the facts of record, it is concluded that applicant should be authorized to increase existing rates for the transportation of newspapers within California (with the exception of its general rate of 1 cent per pound) by an amount not to exceed 10 per cent thereof, and to publish a provision that portions of newspapers shipped separately shall be rated as a complete newspaper. In all other respects, the application should be denied. It should be understood, however, that this denial is without prejudice to the filing of a supplemental application proposing a modified basis of rates in cents per 100 pounds consistent with the opinion hereinbefore expressed.

O R D E R

Public hearings having been held in the above entitled proceeding and based upon the evidence there received and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that Railway Express Agency, Incorporated, be and it is hereby authorized to increase its rates for the transportation of newspapers within California (with the exception of its general rate of 1 cent per pound) by amounts not to exceed ten (10) per cent; and to establish a rule providing, in substance, that portions or supplements of newspapers shipped separately shall each be charged for as a complete newspaper.

IT IS HEREBY FURTHER ORDERED that, in all other respects, this application be and it is hereby denied without prejudice.

The authority herein granted shall expire if not exercised within ninety (90) days from the effective date hereof.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 19th day of March, 1940.

Ray & Lee
John W. ...
Ralph ...
James J. ...
Commissioners.