

**ORIGINAL**Decision No. 32579

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SOUTHERN PACIFIC COMPANY for an Order )  
 authorizing it to close its Agency of ) Application No. 24035.  
 Milpitas, County of Santa Clara, State )  
 of California, and to maintain the )  
 same as a non-agency station. )

R. S. MYERS, for applicant.  
 N. D. PRITCHETT, for Order of Railroad Telegraphers,  
 Protestant.  
 J. C. ROSE, in propria persona, also representing Rose  
 Valley Produce Company, and certain cattlemen.

BY THE COMMISSION:

O P I N I O N

Applicant, Southern Pacific Company, has made application requesting authority to close the agency at Milpitas Station, County of Santa Clara, and to maintain the same as a non-agency station.

At a public hearing held at Milpitas on April 17, 1941, before Examiner Malquist, the matter was submitted upon the provision that applicant supply the Commission with certain information in exhibit form, and subsequent thereto the filing of concurrent briefs. The exhibit and briefs have now been received and the matter is ready for decision.

A summary of the evidence introduced at the hearing is as follows:

The station of Milpitas is located on the main line of the Southern Pacific Company extending from Oakland to San Jose. The nearest existing agency on the north of Milpitas (west in railroad direction) is Irvington, a distance of 7.9 miles, while on the south (east in railroad direction) is the City of San Jose, a distance of 7.0 miles.

Applicant contends that under present conditions the business handled at Milpitas Station does not warrant the continued maintenance of an agent and that the public will not be deprived of any necessary service or suffer any serious inconvenience by the closing of the agency. Furthermore, that passenger train service to or from this station has been discontinued since March 1, 1940 and that no agent is required at Milpitas for the purposes of train operation.

A summary showing comparison of business handled at this station during the calendar years 1939 and 1940 was filed by applicant at the hearing<sup>(1)</sup> and subsequently similar information was

(1) Exhibit No. 2 reflects the following information:

<u>I t e m</u>	<u>Year Ended 12/31/40</u>	<u>Average Per Mo.</u>	<u>Year Ended 12/31/39</u>	<u>Average Per Mo.</u>
Number of waybills made	81	7	86	7
Number of freight bills made	621	52	660	55
Western Union messages	191	16	217	18
<u>Freight Received and Forwarded</u>				
Carloads - cars	91	8	75	6
Carload revenue - Local*	\$3,211	\$268	\$2,313	\$193
Carload revenue - Interline	\$1,868	\$156	\$ 169	\$ 14
Less-than-carload revenue - Local*	\$ 316	\$ 26	\$ 341	\$ 28
Less-than-carload revenue - Interline	\$ 20	\$ 2	\$ 32	\$ 3
<u>Passengers and Revenue</u>				
Agency reports - Passengers#	2	-	2	-
Agency reports - Revenue	\$ 23	\$ 2	\$ 2	\$ -
<u>Expenses</u>				
Station expense	\$1,927	\$161		
L.C.L. plus ticket sales revenue	\$ 359	\$ 30		

\* One-half of actual revenue.

# Passenger train service to or from Milpitas discontinued on March 1, 1940.

furnished covering the first three months of the years 1939, 1940, and 1941. (2) Attention is called to the fact that on local traffic one-half of the carload and less-than-carload revenue is allocated to Milpitas and one-half to such other agency as originated or terminated the business. The revenue shown for less-than-carload movement includes all shipments handled to and from Milpitas by the Pacific Motor Trucking Company.

Applicant bases its case upon the fact that the average monthly expense at this station is more than five times the gross revenue derived from less-than-carload shipments and passenger traffic. (3)

(2) Exhibit No. 2-A reflects the following pertinent facts:

I t e m	1939		1940		1941	
	Jan. Feb. March	Avg. Per Month	Jan. Feb. March	Avg. Per Month	Jan. Feb. March	Avg. Per Month
Number of Waybills made	17	6	19	6	13	4
Number of Freight bills made	173	58	129	43	206	69
Western Union messages	37	12	35	12	4	1
<u>Revenue</u>						
Carloads - cars	21	7	15	5	32	11
Carload revenue - Local*	\$870	\$290	\$464	\$155	\$1,233	\$411
Carload revenue - Interline	-	-	\$140	\$47	259	\$86
Less-than-carload - Local*	\$107	\$36	\$64	\$21	71	\$24
Less-than-carload - Interline	\$5	\$2	\$1	\$-	10	\$3
Passenger revenue	\$1	\$-	\$23	\$8	-	\$-

\* One-half of actual revenue.

(3) Applicant contends that the annual station expense as reflected by Exhibit No. 2 includes only direct expenses, such as wages \$1,852.69, stationery \$8.22, telephone \$13.20, electric light \$36.84, and miscellaneous supplies \$15.70. The exhibit indicates the average monthly gross revenue derived from less-than-carload shipments and passenger traffic amounts to 18.63 per cent of the average monthly station expense.

Testimony introduced by applicant was to the effect that all less-than-carload traffic is now handled to and from Milpitas by the Pacific Motor Trucking Company; that almost 100 per cent of the business handled at the station is inbound; that approximately 95.9 per cent of the shipments received store-door pickup or delivery during the year 1940, and the remaining 4.1 per cent depot delivery. Applicant testified that no change is contemplated in this service and that in the event this application is granted patrons will continue to receive store-door pickup and delivery of l.c.l. shipments. Applicant further testified that shipments not accorded store-door pickup or delivery service would be taken care of by storing them in the station freight warehouse under lock, and that a key to the freight warehouse, in addition to being obtainable from a custodian located in the immediate proximity of the station, would be supplied to any responsible patron of the company regularly using the Milpitas station. In addition applicant contended that a company telephone located on the station platform would be made available to patrons who desire to communicate with adjacent agencies for the purpose of ordering cars or transacting any other railroad business.

Applicant further contended that in the event the application was granted that the Railway Express Agency had made arrangements for another agent, in lieu of the Southern Pacific Company agent, and that there would be no disturbance of the Railway Express Service in Milpitas.

Protestants to this application alleged that business conditions in the territory were improving generally; that the records of the Southern Pacific Company definitely prove that freight revenue accruing to the Milpitas station during 1940 showed a decided improvement over 1939 and that indications are the year 1941 will continue to show improvement over 1940; that under existing conditions

it would appear to be an inopportune time to discontinue any agency where business was improving.

Protestants further alleged that the placing or storing of less-than-carload freight in the station freight warehouse would prove unsatisfactory; that this arrangement would not give freight shipments proper protection and that they would therefore be subject to pilferage; and, that patrons had had difficulty using a railroad company telephone to transact business.

Concerning the increase in revenue at Milpitas station it was contended by applicant that the total amount of traffic handled was very small and that consequently any change would seemingly have a large effect when expressed in terms of percentage. Applicant pointed out that the increase in revenue during the year 1940 accrued from the movement of carload business (approximating 105 per cent increase over 1939), but that the actual number of cars handled only increased from 75 to 91, amounting to 21 per cent; that Exhibit No. 2 shows that revenue accruing from less-than-carload business actually showed a decrease in 1940 over 1939, the monthly average being \$31 in 1939 and \$28 in 1940.<sup>(4)</sup>

Concerning the possible pilferage of less-than-carload traffic left in the station freight warehouse, applicant contended that past experience indicated that no more difficulty was had in this respect at non-agency points than at agency points. Applicant also pointed out that Milpitas was on the San Jose telephone exchange and that communication could be made from a telephone in a home or place of business in Milpitas to the Southern Pacific Agency in San Jose with no long distance toll charge.

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(4) Exhibit No. 2-A indicates an average revenue accruing from less-than-carload traffic for the first three months of 1941 to be \$27 per month.

A review of the record in this proceeding produces the following apparent facts:

1. Passenger train service to and from this station has been discontinued for a period in excess of one year and it is therefore obvious no agency is required for passenger service.
2. In the event the application is granted the Railway Express Agency will be transferred to another agent in Milpitas and therefore no change is anticipated in Railway Express Service.
3. Less-than-carload traffic moves in trucks operated by the Pacific Motor Trucking Company (a subsidiary of the Southern Pacific Company). Approximately 96 per cent of the shipments are accorded store-door pickup or delivery, and in the event the application is granted no change is contemplated in this service.
4. Less-than-carload traffic not accorded store-door pickup or delivery will be placed under lock in the station freight warehouse and a custodian of the key appointed, or duplicate keys issued to responsible Milpitas patrons of the company.
5. Freight revenue accruing from carload shipments during the year 1940 showed an increase of approximately \$2,597 over the year 1939, but revenue from less-than-carload shipments in 1940 showed a decrease when compared to 1939.

It appears from this record that the public need for agency service is generally limited to less-than-carload shipments not accorded store-door pickup or delivery and the carload traffic. In the former instance it appears from the record that this traffic averaged during the year 1940 approximately two or three shipments per month. With respect to the carload movements the record indicates that practically all shipments are inbound.<sup>(5)</sup> It appears that

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(5) During 1940 the record shows 98 cars received and 3 cars forwarded. Applicant has contended that the services of a local agent are not particularly essential to inbound carload movements inasmuch as the cars are spotted on spur tracks or team tracks by the crew of the freight train, and that orders for the spotting of cars are generally issued in advance of the freight train movement.

patrons of the Southern Pacific Company will be able to receive information concerning the movement of contemplated freight shipments by toll free telephone communication with the San Jose Agency in much the same manner as is presently done by conferring with the Milpitas agency.

CONCLUSIONS:

The expense of maintaining an agency in Milpitas by the Southern Pacific Company appears to be somewhat disproportionate to the public use of the agency. Although an increase in revenue is evident for the year 1940, it has been pointed out that the total gross revenue of this station is small and that the increased revenue accruing from the inbound movement of carload shipments, did not necessarily increase the use of the agency by the public.

The public need for an agency service to be continued at Milpitas station is not apparent from the volume of less-than-carload traffic reported handled through the station and there is no passenger service involved. In view of the facts of record in this case, as herein set forth, we are of the opinion that this application should be granted.

O R D E R

Public hearing having been held in the above entitled proceeding and the matter having been duly submitted,

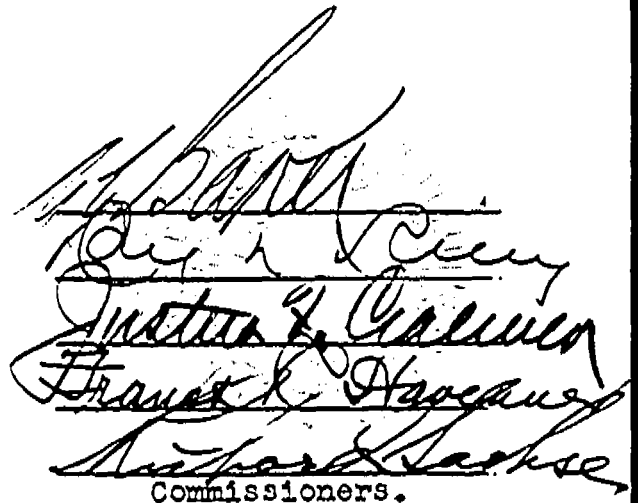
IT IS HEREBY ORDERED that applicant, Southern Pacific Company, be authorized to abandon its agency at Milpitas station, Santa Clara County, California, subject to the following conditions:

- (1) Applicant shall continue said station as a non-agency station.

- (2) Applicant shall give not less than ten (10) days' notice to the public of said agency abandonment by posting a notice at said station.
- (3) Southern Pacific Company shall store less-than-car-load freight shipments under lock in the company's warehouse and the railroad telephone located at said station shall be made available to its patrons. The keys to both warehouse and telephone shall be obtainable from a custodian located at or near said station and notice advising shippers where the keys may be secured shall be maintained at said station. In addition, extra keys to said warehouse shall be furnished patrons regularly using said station upon application for same.
- (4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the abandonment herein authorized and of its compliance with the conditions hereof.
- (5) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

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 12<sup>th</sup> day of August, 1941.

  
Commissioners.