

Decision No. 35007**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of certain railroads (and con- )  
necting highway carriers and )  
water lines) for authority to ) Application No. 24670  
increase their rates, fares and )  
charges (1942). )

RILEY, Commissioner.

Appearances

James E. Lyons, L.N. Bradshaw, Gerald E. Duffy and  
E.C. Renwick, for rail line applicants.  
Roy B. Thompson and Edward M. Berol, for Truck Owners  
Association of California.  
E.H. Hart, for Draymen's Association of Alameda County.  
W.G. Stone, for Sacramento Chamber of Commerce.  
Walter A. Rohde, for San Francisco Chamber of Commerce.  
E.J. White, for Los Angeles Grain Exchange.  
Eugene A. Read, for Oakland Chamber of Commerce.  
N.E. Keller, for Pacific Portland Cement Company.  
E.J. Forman, for Globe Mills.  
E.W. Hollingsworth, for Bishop & Bahler and Permanente  
Corporation.  
R.F. Walker, for Spreckels Sugar Co. and Western Sugar  
Refinery.  
Robert C. Neil, for California Fruit Growers Exchange.  
John Curry, for California Cattlemen's Association and  
California Wool Growers Association.  
William Guthrie and J.L. Dartt, for California Portland  
Cement Company.  
A. Larsson, for California Redwood Association membership  
and Larsson Traffic Service.  
Carl R. Schulz, for Coast Line Truck Service.  
R.T. Boyd, for California State Brewers' Institute.  
J.L. Stewart, for Armour & Company.  
Robert Hutcherson, for Tide Water Associated Oil Company.  
Glen C. Holtwick, for Vallejo, Napa & Calistoga Transport  
Company and Merchants Express Corporation.  
Thos. R. Speakman, for Pacific Coastwise Conference.  
R.F. Burley, for McCormick Steamship Co., Division of  
Pope & Talbot Inc.  
William Gissler, for Eureka Freight Lines.  
Irving F. Lyons, for Cannery League of California  
M. Meyer, for Certain-teed Products Corporation.  
E.R. Warren, for San Francisco Grain Exchange and  
California Hay, Grain & Feed Dealers Association.

L.P. Siddons and W.C. Crews, for Holly Sugar Corporation.  
 F.J. Rebham, for American Sugar Company.  
 Lewis A. Parsons, for Calaveras Cement Company.  
 J.B. Costello and N.R. Moon, for Sperry Flour Company.  
 Ralph D. Mitchell, for Henry Cowell Lime & Cement Company.  
 Arlo D. Poe, for Motor Truck Owners' Association of Southern California.  
 H. Hendrick and Clair MacLeod, for Transbay Motor Express, West Berkeley Express & Draying Co., Johnson Truck Line and Security Truck Line.  
 L.H. Wolters, for Golden State Company, Ltd.  
 J.A. Montgomery, for California Deciduous Fruit Growers League.  
 J.J. Deuel, for California Farm Bureau Federation.  
 A.H. Van Slyke, for Yosemite Portland Cement Co.  
 W.G. Higgins, for Santa Cruz Portland Cement Co.  
 A.H. Glickman, for Motor Carriers Traffic Bureau.  
 Paul O. Helin, for Calavo Growers of California.  
 John M. Desch, for interstate motor carriers.  
 Reginald L. Vaughan, for Pacific Motor Carriers Tariff Bureau.  
 Douglas Brookman and Reginald L. Vaughan, for California Motor Express, Ltd., California Motor Transport, Ltd., Valley and Coast Transit Co., and Coast Line Express.

INTERIM OPINION AND ORDER

By petitions filed with the Interstate Commerce Commission, substantially all of the Class I railroads of the United States, The American Short Line Railroad Association on behalf of its membership, and certain other carriers subject to The Interstate Commerce Act, requested authority to effect a general increase in rates, fares and charges of 10 per cent. Thereafter, the Interstate Commerce Commission instituted a proceeding for the purpose of inquiring into the lawfulness and propriety of the proposals (Ex Parte 148, in Re Increased Railway Rates, Fares and Charges, 1942).

Pursuant to the provisions of Section 13 (3) of The Interstate Commerce Act, the Interstate Commerce Commission invited the cooperation of the various state regulatory commissions in

considering the petitions. The presiding commissioner participated with the Interstate Commerce Commission as one of two representatives from the Mountain-Pacific states. Public hearings and oral argument were had in these matters at St. Louis, Missouri.

By order dated January 21, 1942, the Interstate Commerce Commission found that the petition of the rail lines for an increase in passenger fares, except those specially published for application to members of the military or naval forces of the United States traveling on furlough and those published as extra fares applicable in connection with particular trains, should be granted. More specifically, it found:

(1) "That the increase in fares proposed is necessary to meet, in part, increased operating expenses incurred or to be incurred by said petitioners because of the payment by them of (a) increased wages to employes, (b) increased cost of materials and supplies, and (c) additional expenditures to safeguard petitioners' properties and operations during the present emergency; \* \* \*."

(2) "\* \* \*that the increase in fares proposed is necessary to enable petitioners to continue to render adequate and efficient railway transportation service during the present emergency; and that, upon consideration of said petitions and the evidence of record, that the proposed increased fares will be reasonable and lawful."

As a part of their program to obtain a nation-wide increase in rates, the rail lines filed applications with the various state commissions for authority to increase intrastate rates, fares and charges in the manner and to the extent authorized by the Interstate Commerce Commission in interstate rates, fares and charges. On December 27, 1941, the California rail lines and certain connecting common carriers by vessel and by

highway filed such an application with this Commission.<sup>1</sup> That portion of the record dealing with passenger fares was taken under submission following hearings held in San Francisco, January 29<sup>2</sup> and 30, 1942, and the matter is now ready for decision.

The record developed in the interstate proceeding (Ex Parte 148) was made a part of the record herein.

According to the application and the record developed herein, the rail lines of the United States, including the applicants, have recently experienced, and are now experiencing, substantial increases in costs of operation, the passenger operation portion of which cannot be covered by the currently effective passenger fares. Numerous witnesses testified that these increased costs are due to mediation wage agreements, whereby practically all of the Nation's railroad personnel has received a substantial wage increase, to increased and increasing costs in many materials and supplies brought on by the war-time economy now prevailing, to expenses already encountered and immediately anticipated in connection with safeguarding of properties and supplies from sabotage efforts, and to reorganizing and expanding the American railroad plant to handle military (as well as civilian) transportation requirements. These increasing costs, the witnesses emphasized,

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The Pacific Electric Railway Company joined in the application but subsequently withdrew therefrom in so far as local passenger fare adjustments are concerned. This carrier has pending separate applications for authority to increase the aforesaid fares.

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The request for authority to increase freight and milk and cream rates will be considered in an opinion and order to be issued at a subsequent date.

have been thrust upon the California lines, and upon intrastate passenger operations conducted by them, with as much severity, at least, as upon other railroads operating throughout the country. They stated that the increase in fares requested is necessary to offset in part these increasing costs of operation.

The California Class I railroads<sup>3</sup> estimate that the cost of system wage increases to them alone will closely approximate \$53,000,000, a large part of which will apply to California intrastate traffic. Studies submitted in evidence by the carriers disclose that for the eleven-year period from 1930 to 1940, inclusive, the average return on investment of the California Class I railroads was 1.93 per cent, that during several of those years a deficit was experienced by certain of the carriers, and in no instance did the return earned reach 4 per cent. Average revenue per passenger-mile for system operations of these railroads decreased from approximately 2.84 cents in 1930 to 1.65 cents in 1940. According to statistics submitted for the eleven months of 1941, some system passenger revenue increases have resulted but intrastate passenger revenues, in the aggregate, have not materially changed.

The applications will be granted, except as otherwise provided in the order.

Pursuant to the action of the Interstate Commerce Commission in Ex Parte 148, supra, this has been treated as a revenue proceeding. It is to be understood that this is an interim opinion and order and that the reasonableness of any particular fare is not here being passed upon and that any individual or group may properly

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<sup>3</sup> These railroads are The Atchison, Topeka and Santa Fe Railway Company, Great Northern Railway Company, Northwestern Pacific Railroad Company, Southern Pacific Company, Union Pacific System, and The Western Pacific Railroad Company. Pacific Electric Railway Company figures are not included.

challenge by complaint and in the usual manner, or the Commission may on its own initiative investigate the reasonableness or lawfulness of individual or group increases herein authorized should such increases be regarded as unreasonable or in any other manner unlawful. Moreover, the carriers hereby affected will be required to agree that, before accepting the benefits of this order and before filing the fares authorized herein, they will never urge before this Commission, in any reparation proceeding under Section 71 of the Public Utilities Act, or in any other proceeding, that the opinion and order herein has found any individual fare authorized to be reasonable.

The following form of order is recommended:

INTERIM ORDER

This application having been duly heard and submitted in so far as it relates to the matters discussed in the preceding opinion, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that applicants herein (other than the Pacific Electric Railway Company in so far as its local fares are concerned) be and they are, and each of them is, hereby authorized to establish on not less than one (1) day's notice to the Commission and to the public the increased passenger fares proposed by the application herein, subject to the limitation that no increase shall be made in local commute fares; provided, that where the total increased fares are less than one dollar fractions of less than one-half cent shall be dropped and fractions of one-half cent or greater may be increased to the next whole cent, and that where the total increased fares are more than one dollar, such fares shall end in 0 or 5, but not more

than 2.5 cents shall be added to the present fares as increased by 10 per cent in order to make such total fares end in 0 or 5.

IT IS HEREBY FURTHER ORDERED that applicants herein (other than the Pacific Electric Railway Company in so far as its local fares are concerned) be and they are, and each of them is, 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 fares as authorized herein may be published without regard to the terms of Tariff Circular No. 2 to the extent necessary to carry out the effect of the order herein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicants herein (other than the Pacific Electric Railway Company in so far as its local fares are concerned) will never urge before this Commission in any proceeding under Section 71 of the Public Utilities Act, or in any other proceeding, that the opinion and order herein constitute a finding of fact of the reasonableness of any particular fare, and that the filing of fares pursuant to the authority herein granted will be construed as consent to this condition.

AND IT IS FURTHER ORDERED, that jurisdiction be, and it is hereby, retained by the Commission, for the purpose of determining, if need be, the lawfulness of any particular fare or fares, resulting from this order.

The Commission not yet having determined the remaining issues involved, namely, those relating to the rates and charges for the transportation of freight, and services connected therewith, and for the transportation of milk and cream, jurisdiction is hereby retained for the purpose of further consideration and determination of such other issues herein.

The authority herein granted shall be void unless the passenger fares authorized in this order are published, filed and made effective on not less than sixty (60) days from the effective date hereof.

The foregoing opinion and order are hereby adopted and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of February, 1942.

Justus F. Casper  
Ray L. Rice  
A. B. Baker  
Harold H. Hache  
Commissioners.