

ORIGINAL

Decision No. 35012

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of a 10-cent)
Emergency Charge on L.C.L.)
Express Shipments.)

Application No. 24662

BY THE COMMISSION:

O P I N I O N

By this application, Railway Express Agency, Incorporated, an express corporation, seeks authority to increase its intrastate rates by the addition of a 10-cent charge to each less-carload express shipment. The application followed the filing with the Interstate Commerce Commission of supplements to applicant's tariffs, adding this charge to its less-carload rates for interstate shipments. After a public hearing at St. Louis on January 9, 1942,¹ before that Commission and a Cooperating Committee of State Commissioners including Commissioner Ray L. Riley of this Commission, the proposed additional charge was permitted to become effective on January 20, 1942, in so far as it applies to interstate shipments moving at first, second and third class rates, or multiples thereof, and to interstate shipments of money. On all other interstate traffic the proposed additional charge was suspended pending further investigation.

By supplemental application herein, the Express Agency asks that it be granted, at this time, authority to establish the proposed additional charge only on intrastate shipments moving under rates similar to those which the Interstate Commerce Commission permitted

¹ This Commission has been furnished with copies of the transcript and exhibits of the St. Louis hearing.

to be increased on like interstate traffic, and that the application be held in abeyance in so far as other shipments are concerned. Authority is also sought to make the proposed increase effective on one day's notice.

In support of the proposed additional charge, applicant alleges that since the adjustment of its rates in April 1939, the cost of transporting express shipments has been substantially increased as a result of wage increases, the latest one having been authorized by the President's Emergency Board, and higher payroll taxes occasioned thereby, and as a result of higher prices for materials and supplies. It is pointed out that these increased expenses are being and will be incurred in the handling of intrastate as well as interstate shipments. The wage and payroll increases alone, it is estimated, will increase applicant's annual operating costs by approximately \$16,000,000. It is alleged that revenues which would be derived from application of the proposed additional charge to all intrastate and interstate traffic would be substantially the same as the amount of the wage increase. Application of the same additional charges to intrastate and interstate traffic is said to be essential to a fair and equitable distribution of the increased costs of express operations and to be necessary to avoid undue and unreasonable discrimination between intrastate and interstate traffic.

In view of the representations made by applicant and the conclusions reached by the Interstate Commerce Commission, this does not appear to be a matter in which a public hearing is necessary.

X The application, as amended, will be granted. It should be emphasized, however, that this is a revenue proceeding; that we are not here called upon to pass upon the reasonableness of any particular rate; and that any shipper or group of shippers may properly challenge the reasonableness or lawfulness of any individual rate herein authorized.

Applicant will be granted permission to file and make effective on one day's notice to the Commission and the public the increases in its intrastate rates herein authorized, and to make such departures from the provisions of Section 24(a) of the Public Utilities Act as are necessary to the establishment of the authority herein granted.

Before accepting the benefits of this order and before filing the rates authorized herein, applicant will be required to agree that it 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 that any individual rate authorized is reasonable.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the Railway Express Agency, Incorporated, be and it is hereby authorized to increase charges for the transportation of less-carload shipments moving at first, second and third class rates, or multiples thereof, and of less-carload shipments of money, by the addition of a charge of 10 cents per shipment.

IT IS HEREBY FURTHER ORDERED that Railway Express Agency, Incorporated, be and it is hereby authorized to publish and file the increases authorized herein on not less than one (1) day's notice to the Commission and the public.

IT IS HEREBY FURTHER ORDERED that Railway Express Agency, Incorporated, be and it 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 the authority herein granted is subject to the express condition that Railway Express Agency, Incorporated, 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 rate, and that the filing of rates pursuant to the authority herein granted will be construed as consent by Railway Express Agency, Incorporated, to this condition.

The authority herein granted shall be void unless the rates and charges are published and filed and made effective on not less than sixty (60) days from the effective date hereof.

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

Dated at San Francisco, California, this 10th day of February, 1942.

Justus J. Guessen
Ray S. Piller
J. J. [unclear]
Richard [unclear]

Commissioners.

CERTIFIED AS A TRUE COPY

Secretary, Railroad Commission
of the State of California.