

Decision No. 36031

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of a 10-cent)
 Emergency Charge on L.C.L.) Application No. 24662
 Express Shipments.)

BY THE COMMISSION:

ORIGINALAppearances

Felix T. Smith and Alfred Sutro, for applicant.
 Walter A. Rohde, for San Francisco Chamber
 of Commerce.
 Milton O' Donnell, for Allied Drug Distributors'
 Association and Johnson & Johnson.

FIRST SUPPLEMENTAL OPINION

In this application Railway Express Agency, Incorporated, an express corporation, requests authority to increase its intra-state less-carload rates by 10 cents per shipment. By Decision No. 35012 of February 10, 1942, the increase requested was granted in so far as it pertained to shipments moving under class rates and to shipments of money.¹ There remains for consideration applicant's request to establish the 10 cents per shipment charge on certain of its less-carload commodity shipments.² Public hearing was

¹ Issuance of this decision followed action taken by the Interstate Commerce Commission (1) permitting suspended tariffs providing a similar 10 cents per shipment increase to become effective January 20, 1942, and (2) continuing under suspension, pending further investigation, tariffs providing a like per-shipment charge on less-carload commodity shipments.

² This request is embodied in applicant's Second Supplemental Application No. 24662, filed October 9, 1942. The increase is not sought on less-carload commodity rates applicable to the transportation of corpses, daily newspapers, milk, cream and C.O.D. returns and collections.

had in this matter before Examiner Howard G. Freas at San Francisco on December 2, 1942.

A witness for Railway Express Agency, Incorporated, testified that the Interstate Commerce Commission on September 8, 1942, issued its order in I. & S. Docket 5100, Express L.C.L. Emergency Charge permitting the increase of 10 cents per shipment to become effective on applicant's less-carload interstate commodity shipments. In support of the application to increase similarly its intrastate less-carload commodity rates, applicant introduced evidence showing that, due to increases in wages, payroll taxes and supplies incurred since its rates were last adjusted in 1939, its California intrastate operating expenses have increased approximately \$355,344.42 for a 12-month period ending August 31, 1942; that the 10 cents per shipment increase heretofore authorized on less-carload shipments moving at class rates, had it been in effect during this 12-month period, would have produced an estimated \$226,966; that a similar increase, if granted on the commodity traffic involved, would produce \$126,800.90; and that, if authorized for application on both class and commodity less-carload traffic, the increase would produce additional revenues which would fall short of meeting the increased expenses by approximately \$1,500.

Aside from this, applicant's showing was based on its system operations. Financial statements were introduced which developed, among other things, the ratios of express revenue to express payments paid the rail lines for the transportation of express matter for the period beginning 1929 and ending March, 1942. These statements show that applicant's system express payment ratio declined from a high of 51.51 per cent in 1929 to a low of 32.71

per cent in 1938 and that in 1941 the percentage was 32.91.³

Applicant testified that the Director General, during the period of federal control, fixed the ratio of express payments to express revenue at 50.25 per cent and that it was developed by the Federal Coordinator of Transportation in his Passenger Traffic Report that in 1933, when the ratio of express payments to express revenue was 37.53 per cent, the railroads fell \$54,264,000 short of covering costs incurred by them which were chargeable to express.

The statements also show that, while the number of shipments handled by applicant decreased from 40,439,878 in the 3-month period ended March 31, 1941, to 39,188,976 for a similar period in 1942,⁴ the average per shipment express payment to the railroads increased from 33.40 cents for the first three months of 1941 to 51.72 cents per shipment for the 3-month period ended March 31, 1942. In the first three months of 1942 applicant's system revenues exceeded the revenues for the same period in 1941 by \$11,217,903.43 of which amount only \$2,500,000 was said to represent revenue from the 10 cents per shipment increase granted on

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The ratios developed are as follows:

<u>Year</u>	<u>Per Cent</u>	<u>Year</u>	<u>Per Cent</u>
1929	51.51	1936	39.83
1930	47.21	1937	35.07
1931	42.18	1938	32.71
1932	38.46	1939	35.09
1933	37.53	1940	33.98
1934	39.57	1941	32.91
1935	37.85	3 Months ended March 31, 1941	31.64
		3 Months ended March 31, 1942	37.61

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The decrease in the number of shipments for the first nine months of 1942, compared with a similar period in 1941, was 7.35 per cent.

shipments moved at less-carload class rates.⁵ The balance was attributed to an increase in government traffic resulting from the war emergency. The witness explained that the increase in revenue per shipment was due to the fact that while the number of shipments had decreased, the average weight, length of haul and revenue per shipment has increased because of the many carload shipments it has handled for the government and the increase in weight of many of the so-called commercial shipments. This favorable showing, he said, reflects a temporary and abnormal situation which cannot be expected long to continue. However, on cross-examination the witness admitted that applicant's express payment ratio was 39.84 per cent for the first nine months of 1942.

It is also urged that application of the same additional charge on the commodity traffic involved as is already in effect on interstate and intrastate class rate traffic and on interstate commodity traffic is necessary to prevent undue and unreasonable discrimination between intrastate and interstate traffic and between traffic moving intrastate at class and commodity rates.

From the foregoing it will be seen that, basically, applicant rests its prayer for increased rates upon studies of its system operations. These studies were more than eight months old when introduced and clearly, therefore, do not show applicant's existing operating experience. It was admitted that there have been substantial changes since then, particularly in the amount of government freight handled. Applicant's attention was called to the lack of any showing of the effect which existing transportation conditions have upon its operations in California. While applicant has

⁵ Applicant's increase in revenue over expenses, excluding taxes, for the 3-month period in 1942 was 147 per cent.

introduced evidence concerning its added California operating expenses and the additional revenue which the 10-cent charge can be expected to earn, no attempt has been made to show what its over-all expenses, revenues or express payment ratios are or have been in California. It is noteworthy that applicant's express payment ratio has increased from 32.91 per cent in 1941 to 37.61 per cent for the first three months of 1942 and to 39.84 per cent for the first nine months of 1942. There is nothing in the record to indicate that this upward trend will not continue.

Moreover, it was not shown that the express payment ratio of 50.25 per cent allowed by the Director General during the period of federal control was proper then or is proper now. Neither does the fact that applicant's ratio of express payments to express revenue was only 37.53 per cent in 1933, standing unsupported, serve to discredit the ratio of 39.84 per cent which applicant has experienced for the first nine months of operation in 1942. It is interesting to note that applicant's ratio of express payments to express revenue would have had to be 89.94 per cent to reflect payment of the deficit of \$54,264,000 said to have been experienced by the railroads in 1933.

If applicant believes undue and unreasonable discrimination between interstate and intrastate traffic and between traffic moving

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According to the record the Director General, prior to July 1, 1918, served notice that he would not continue to have express service performed by the several express companies then operating and that if these companies would form one company he would enter into an agreement with it for the transportation of express matter over the railroads then under federal control. On July 1, 1918, these companies formed the American Railway Express Company. The Director General arrived at the ratio of 50.25 per cent by determining the average percentage which the express payments were to the express revenue of the respective companies for a period of 10 years prior to July 1, 1918.

intrastate at class and commodity rates exists under the present rate adjustment, this discrimination can be removed by withdrawing the 10 cents per shipment charge from traffic upon which it now applies as well as by adding the charge to traffic upon which the increase is sought to be added.

Upon consideration of all the facts of record, we are of the opinion and find that the proposed increases have not been justified and that the application should be denied.

ORDER

A public hearing having been held and based upon the evidence received at the hearing and upon the conclusions set forth in the preceding opinion,

IT IS HEREBY ORDERED that Second Supplemental Application No. 24662 be and it is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15th day of December, 1942.

Justus F. Casper
W. H. Baker
Frederic R. Staveney
Arthur R. Baker
 Commissioners