

ORIGINAL

Decision No. ~~27055~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN CALIFORNIA FREIGHT LINES, a)
Corporation, and SOUTHERN CALIFORNIA) Application No. 25753
FREIGHT FORWARDERS, a corporation,)
for authority to increase their rates)
of charges.)

In the Matter of the Application of)
VALLEY EXPRESS CO., a corporation,)
and VALLEY MOTOR LINES, INC., a cor-) Application No. 25784
poration, for authority to increase)
their rates of charges.)

In the Matter of the Application of)
PACIFIC FREIGHT LINES, a corporation,)
and PACIFIC FREIGHT LINES EXPRESS, a) Application No. 25841
corporation, for authority to increase)
rates.)

SACHSE AND ROWELL, COMMISSIONERS:

Additional Appearances

William Carney, for Fred M. Vinson, Economic Stabil-
ization Director and Chester Bowles, Price Ad-
ministrator, Office of Price Administration,
Washington, D.C.

Thomas E. Sands, Jr., Lieutenant Colonel, Judge
Advocate General's Department, Army of the
United States, for the Secretary of War.

John S. Griffin, Office of the Solicitor, United
States Department of Agriculture, Washington, D.C.,
for the War Food Administrator.

Berol & Handler, by Marvin Handler, for El Dorado
Motor Transportation Company, Sacramento Freight
Lines, Sacramento-Corning Freight Lines, Ltd.,
Kellogg Express & Draying Company, Vallejo, Napa
& Calistoga Transport Company and Triangle
Transfer Company and Arvin Lines, in support of
the supplemental application of Valley Express
Company.

Berol & Handler, by Marvin Handler, for Huntington
Stages, in support of the supplemental applica-
tion of Valley Express Company.

Lloyd R. Guerra, for Western Truck Lines, Ltd.

F. J. Arturo, for Swift & Company.

OPINION ON FURTHER HEARING

Applicants originally requested an increase of 10 per cent in all of their rates and charges. At the conclusion of initial hearings terminating on December 20, 1943, they changed their request to 12½ per cent. Upon consideration of the record made at that time, the Commission found that an increase of 8 per cent had been justified. (Decision No. 36880 of February 15, 1944.) Shortly after release of that decision, and before its effective date, the Commission received urgent representations and petitions for reconsideration of the order from the Federal Price Administrator, the Economic Stabilization Director, the Secretary of War, and the War Food Administrator.¹ Generally, petitioners alleged that the evidence was too incomplete and indefinite to establish the carriers' need for the increase authorized; that the Commission erred in allowing various items in its computations of the carriers' capital investments and of other figures; that the increased rates would raise or tend to raise ceiling prices on commodities; and that petitioners, if afforded the opportunity, would offer evidence in support of their petitions. Thereupon the Commission rescinded its order and scheduled the proceedings for further hearing.²

Further hearings were had at Los Angeles and San Francisco, and on April 19, 1944, following oral argument, the matters were submitted for decision on a consolidated record.

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The Price Administrator was represented at the initial hearings; the other petitioners were not.

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By orders dated March 1, March 14, and March 21, 1944, respectively, the Commission first postponed the effective date of Decision No. 36880, supra, then rescinded the decision and reopened the applications for further hearing to be held on March 29, then reset the date of hearing to April 10, 1944.

This decision is based upon all evidence of record in these proceedings. Evidence introduced at the original hearings is described in Decision No. 36880, supra. Evidence received at the further hearings was extensive and detailed in many respects, but for purposes of this opinion may be summarized rather briefly.

Witnesses for the Secretary of War and for the War Food Administrator testified concerning the quantity and character of traffic shipped by their respective agencies within California, and supplied some specific information relating to movements over applicants' lines. These witnesses declared that any rate increase would tend to cause a diversion of traffic from the applicants. The War Department witnesses testified also that applicants have played an important and satisfactory part in meeting the Army's transportation requirements within California, and declared that the continued operation of these carriers is highly essential to the war effort.

An economist for the Office of Price Administration testified in considerable detail concerning the inflationary pressure to which the national economy is subject as a result of wartime conditions, the development of the stabilization program, and particularly concerning price adjustment policies. He explained that in general the policy of his agency in weighing requests for rate increases by for-hire carriers within its jurisdiction is to allow only such increases as are shown to be required to meet necessary expenses and return a profit which, measured in dollars, will not exceed the average profit enjoyed in the years 1939 to 1941, inclusive, making allowance for additional capital invested in the enterprise since the base period.

The director of the law and utilities department of the California Farm Bureau Federation, reviewing the history of the present rate structure, explained that the minimum rates heretofore established by the Commission for the transportation of agricultural commodities were placed at the lowest practicable levels in obedience to legislative mandates. He stated that although radial highway common and highway contract carriers, of whom there are some 8,000 in this state, exceeded the minimum rates in 1942 and charged still more in 1943, the rates of the applicant carriers have been maintained on the established minimum levels. This witness testified that his organization was more concerned with the possibility of an impairment of applicants' services than with any fear that the Commission might authorize an unreasonable increase in rates.

Evidence directed specifically to the revenue needs of the applicant carriers was introduced by applicants, by an accountant of the Office of Price Administration, and by a senior transportation engineer of the Commission's staff.³ This evidence includes the results of later operations and is in certain other respects more complete than that which was adduced at the original hearings. Each of the witnesses introduced statements of the investments, revenues and expenses of the applicant carriers for the calendar year 1943, together with comparative figures for earlier years; and applicants also offered some information concerning operating experience in January and February, 1944. The witnesses were almost entirely in agreement concerning the results of 1943 operations as reflected by the carriers' books, but differed in their interpretation of these results in relation to future revenue requirements.

³ Pacific and Valley also introduced some evidence in support of a supplemental proposal that the sought rate increase be extended to certain joint rates as will be hereinafter explained.

Southern

The record shows that Southern suffered an actual net operating loss of \$110,244 for the year 1943, and an additional loss of \$14,491 for the first two months of 1944. Applicant rested on these figures and on the record previously made, largely directing its evidence at the further hearing to a proposal that it be permitted to distribute the revenue increase unequally over rates for various lengths of haul.⁴ The Commission's engineer estimated that the 1943 operating loss on the basis of higher wage rates which became effective in the latter part of the year would have been \$158,844.

Pacific

The "Pacific" applicants are Pacific Freight Lines and Pacific Freight Lines Express. Pacific Freight Lines, in addition to traffic involved in its application, operates 10 tank vehicles in the transportation of petroleum products in interstate commerce. A third corporation under the same ownership and management, Pacific Tank Lines, is engaged in the intrastate transportation of petroleum products in tank vehicles as a contract carrier. Pacific Tank Lines is not an applicant.

In the revenue study introduced on behalf of the Pacific carriers, the investments, revenues, and expenses chargeable to the tanker operations were segregated and finally excluded. This was done on the theory that the resulting figures reflect all intrastate common carrier operations of the two applicant corporations, and that the contract and interstate movements have no proper place in the application. To the figures thus developed for the year 1943, the Pacific witness added several substantial adjustments to operating costs

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This proposal will be further discussed hereinafter.

for the purpose of estimating future expenses on the basis of the latest available information.⁵

The Commission's engineer omitted the nonapplicant Pacific Tank Lines from his study, but did not undertake to segregate the interstate petroleum transportation performed by Pacific Freight Lines. He made an adjustment in the 1943 operating expenses to show the effect of the labor cost upon a full year's operation at the present wage scales, but other than this he did not develop estimates of higher expenses for the future, as did the Pacific witness.

The accountant for the Office of Price Administration submitted a consolidated statement of the 1943 figures as recorded in the books of Pacific Freight Lines and Pacific Freight Lines Express, with an adjustment for increased wages. The investment base which this witness set up for Pacific was considerably greater than that allowed by either of the other witnesses, and the reason for this difference was not explained.

The investments, revenues, and actual or adjusted operating expenses as developed by the three witnesses and as considered by us for the purposes of this decision are set forth in the following table:

| (1) | TABLE 1 - PACIFIC | | | (5) |
|-----------------------|-------------------|---------------------|------------------|-----------------------------|
| | (2) | (3) | (4) | Combined Pacific Operations |
| | Applicant | Commission Engineer | O.P.A. | |
| Investment Base | \$1,736,558 | \$1,886,699 | \$2,213,677 | \$1,824,459 |
| Operating Revenues | 3,672,820 | 3,922,114 | 3,922,114 | 4,277,719 |
| Operating Expenses | <u>3,845,760</u> | <u>3,903,170</u> | <u>3,861,393</u> | <u>4,175,391</u> |
| Net Operating Revenue | \$ (172,940)* | \$ 18,944 | \$ 60,721 | \$ 102,328 |
| | * Loss | | | |

Column 5 shows Pacific's combined operations, including Tank Lines. We conclude that in this proceeding, in order to reflect the financial condition of these applicants, Pacific's over-all revenues, expenses and net should have consideration, regardless of the corporate structure, and including all traffic.

⁵ The adjustments were: wage increase, \$47,209; retroactive wages, \$17,396; deferred maintenance, \$82,225; cargo insurance, loss and damage, \$56,998; total, \$203,738.

Discussion and Conclusions:

The Public Utilities Act of California provides that no public utility shall increase its rates except upon a showing before the Commission and a finding by the Commission that such increase is justified.⁷ In these proceedings we are called upon to determine whether, or to what extent, the rate increases provided by the applicant carriers are justified within the meaning of that statutory provision.

The further hearing brought into sharp relief the fluctuating and unstable conditions under which the applicant carriers are operating. Valley's operating ratio changed from about 102 for the first eight months of 1943 to approximately 98½ for the last four months. For the first two months of 1944 the ratio again advanced to about 102. Southern's operating ratio increased from approximately 96½ for the first six months of 1943 to more than 110 for the balance of the year. Similar instability is indicated for the immediate future, for already a number of potential changes have been suggested which may be expected to have important effects upon operating ratios. Among these, in addition to increasing operating costs which the applicants undertook to predict and estimate, are greater use of wartime tires and tubes, requirements of future military operation, possible diversion of War Department and other traffic because of rate differentials, and new wage demands already certified to the War Labor Board for settlement.

⁷ Public Utilities Act, Section 63(a): "No public utility shall raise any rate, fare, toll, rental, or charge or so alter any classification, contract, practice, rule, or regulation as to result in an increase in any rate, fare, toll, rental, or charge, under any circumstances whatsoever, except upon a showing before the Commission and a finding by the Commission that such increase is justified."

Many considerations enter into the determination of the fundamental question whether rate increases are justified, but primarily, - and particularly under the present circumstances - we shall not lose sight of the imperative necessity for maintaining in full vigor the public transportation services of the three applicants. The Office of Price Administration concedes that where price stabilization policies cannot be reconciled with needed revenue increases for essential services, the service need must prevail. The War Department and the War Food Administration made it abundantly clear that applicants' services are essential to the war effort and must be preserved.

There is no material conflict in the record so far as Southern is concerned. Some questions were raised concerning its accounting methods as applied to tires and tubes, loss and damage claims, and vehicle depreciation, but no basic errors were disclosed, nor does it appear that any reasonable modification of the accounts would materially affect the known facts as they relate to Southern's revenue needs. On basis of 1943 experience, without any adjustment whatever, it may be roughly calculated that a revenue increase of 8 per cent would reduce the operating ratio only to 97 per cent, and allow a rate of return on investment of some 10 per cent before payment of income taxes. Adjusting labor expense to reflect current wage scales for the entire year of 1943, the Commission's engineer calculated that an 8 per cent revenue increase would produce an operating ratio of 98.79 per cent, and a rate of return, before income taxes, of only 4.52 per cent. Considering this and other evidence of record, the conclusion is inescapable that Southern must be permitted to raise its rates and charges sufficiently to increase its operating revenue by at least 8 per cent.

With respect to Pacific and Valley careful analysis of the evidence developed at the further hearing leads to the conclusion that the uniform rate increase of 8 per cent, as found justified on the original record, is somewhat greater than the present augmented record shows to be essential. If all of applicants' major contentions were accepted without question, a revenue increase of 8 per cent would give to Pacific an operating ratio of 97 per cent, and a rate of return of some 7 per cent before income taxes, and would give to Valley an operating ratio of about 96 per cent and a rate of return, before payment of income taxes, of 13.6 per cent. Certain of the adjustments in operating expenses made by applicants on the basis of projected and estimated cost increases were not entirely persuasive; others were problematical. Disallowing certain of applicants' questionable contentions, it may be calculated with sufficient accuracy for present purposes that revenue increases of approximately 4 per cent for Pacific and Valley may turn out to be sufficient to satisfy all operating expenses, and produce an overall return consistent with that enjoyed in the years 1939 through 1941.

This preliminary conclusion presents the serious question whether different rates of increase should be authorized for the several applicants upon the basis of the available information. On the one hand, it is axiomatic that within limits the record in each application must be judged on its own merits. These proceedings were consolidated for hearing as a matter of convenience, but with the clear understanding that each application would stand or fall on its own base. On the other hand, many advantages of a uniform rate of increase are apparent. The principal witness for the Secretary of War testified to the desirability of rate uniformity. The operations of Southern and Pacific are highly competitive in the southern part of the state. The establishment of different

rate levels between the competitors would unquestionably have a tendency to divert traffic from the carrier maintaining the higher rates, thus perhaps reducing its revenue and eventually requiring a still greater rate increase in order to insure continued operation.

Under the facts and circumstances as they now appear, but one answer suggests itself, namely, to authorize Southern to increase its rates by 8 per cent, authorize Valley to increase its rates by 4 per cent, and authorize Pacific to increase its rates by 8 per cent in the general territory served by Southern with no increase elsewhere. The resulting revenue increase for Pacific may not be accurately predicted on this record, but it may be reasonably expected to approximate the 4 per cent which has been shown to be required. This course has the obvious advantage of allowing to each applicant the amount of additional revenue which appears to be necessary, without requiring major carriers to maintain different levels of rates in competitive territory. We are not unmindful of the fact that this course will necessarily sanction a difference in rates between territories and will cause Pacific to somewhat complicate its rate structure, but in view of the more serious objections which present themselves on either side, we must conclude that these disadvantages are heavily outweighed and are in fact unavoidable.

Considering the highly unstable conditions under which these applicants are now operating, it is hardly to be anticipated that any level of rates established today will prove to be perfectly adapted to conditions of the future. Testimony of record regarding the continuing upward trend of costs has been noted. Nevertheless, conditions may change at any time and the Commission should proceed with caution. Either upward or downward adjustments in the rate levels

may be necessary as the future conditions are unfolded. For these reasons the Commission will retain its jurisdiction in these proceedings and will hold the matters open for further consideration whenever it may appear that a further adjustment is proper or necessary.

The Office of Price Administration expressed anxiety over the possible inflationary effects of any rate increase in excess of 4 per cent, particularly in consideration of the possibility that our conclusions in these proceedings might be viewed as establishing a precedent for future judgments in this or other jurisdictions. We may point out that some of this anxiety was apparently occasioned by a misconception of the relationship between the rates maintained by these applicants and those which have been observed as "going" rates by other carriers in this state. Regardless of the relative position of these carriers, however, we see nothing in this record or in our decision thereon which may logically be viewed as determinative of a rate of increase, if any, which may be justified at a future date by any other carrier whether in California or elsewhere. The transportation conditions under which these applicants operate may be distinguished from those found in other parts of the United States. Consideration must be given to the numbers and types of competing carriers, the average lengths of haul, the statutory provisions and limitations and the relative rate levels.

Several incidental and supplemental matters remain for consideration. Among them is Southern's proposal that the

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rates be increased by amounts varying according to distance. In support of this proposal, first suggested at the further hearing, Southern introduced considerable evidence to show that in relation to costs the present rates are relatively low for short distances and relatively high for longer distances. This carrier expressed the fear that a uniform increase in all rates might tend to cause some diversion of its relatively profitable long-haul traffic. The other applicants did not concur in this position. The evidence adduced is not sufficient to justify the suggested general readjustment of the rate structure, nor do we consider that these proceedings afford an appropriate occasion for the making of such an adjustment.

Valley and Pacific urged on further hearing that any increase granted by us be extended to rates maintained jointly with carriers other than the applicants in these proceedings. Valley asked, in the alternative, that it be given authority to cancel the joint rates or to maintain higher local rates between intermediate points. Pacific likewise seeks authority to maintain higher rates at the intermediate points in the event the joint rates are not increased. Evidence offered at the further hearing shows that the revenues from the joint rates account for relatively small portions of applicants' income; that other participants in the rates favor the uniform increase; and

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More specifically, Southern's proposal was that the additional revenue be obtained from increases of 12 per cent in rates for distances up to 15 miles; 11 per cent from 16 to 30 miles; 10 per cent from 31 to 45 miles; 9 per cent from 46 to 60 miles; 7½ per cent from 61 to 90 miles; 5½ per cent from 91 to 120 miles; 4 per cent from 121 to 150 miles; and no increase for distances over 150 miles.

that inability to increase the joint rates would result in serious tariff complications. One connecting carrier introduced evidence showing that the service performed under the joint rates here involved was unprofitable. This, however, was not true of his operation as a whole. Clearly this meager showing is insufficient to justify an increase in the joint rates, and certainly no justification has been established for the cancellation of such rates. However, in view of the rather serious difficulties of tariff publication and application which would result from maintenance of the lower joint rates as maximum at intermediate local points, applicants will be temporarily relieved from the operation and requirements of Section 24(a) of the Public Utilities Act to the extent necessary to put into effect the increases hereinafter authorized. Applicants will be expected within the period hereinafter provided to either remove the 24th Section departures or show satisfactory justification for continuing them in effect.

Applicants asked that they be permitted to avoid the use of unnecessary fractions in application of the rates by computing the increased rates and charges (of $10\frac{1}{2}$ cents or more) to the nearest whole cent; and that the increases on percentage class rates be determined by applying the authorized increase to the basic class rates rather than to the percentages thereof. These are matters of convenience and practical tariff application which can have little effect upon the rates, charges or revenues of the carriers, and will be authorized.

Upon careful consideration of all of the facts and circumstances of record in these proceedings, we find as a fact:

1. That increased rates and charges as specifically provided in Appendix "A" of the order which follows are fully justified and necessary to the maintenance of adequate transportation.

2. That applicants should be authorized to depart from the provisions of Section 24(a) of the Public Utilities Act to the extent necessary to enable them to observe the provisions of the order; provided that such authority shall be temporary in so far as it concerns joint rates maintained by applicants with carriers not parties to these proceedings.

The following form of order is recommended:

O R D E R

Further hearings having been had in the above entitled applications, the proceedings having been duly submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that Southern California Freight Lines, Southern California Freight Forwarders, Pacific Freight Lines, Pacific Freight Lines Express, Valley Motor Lines, Inc., and Valley Express Co. be and they are, and each of them is, hereby authorized to establish on not less than five (5) days' notice to the Commission and to the public and to make effective on or after the effective date of this order, increased rates and charges as specifically provided in Appendix "A" which is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that applicants 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 carry out the effect of the order herein; provided that such authority shall expire six months from the date hereof in so far as it concerns joint rates maintained by applicants with carriers not parties to these proceedings.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicants herein 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 or charge, and that the filing of rates and charges pursuant to the authority herein granted will be construed as consent to this condition.

IT IS HEREBY FURTHER ORDERED that the rates and charges authorized herein may be published without regard to the provisions of Tariff Circular No. 2 and General Order No. 80 to the extent necessary to carry out the effect of the order herein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall be void unless the rates and charges authorized in this order are published, filed, and made effective within ninety (90) days from the effective date hereof.

IT IS HEREBY FURTHER ORDERED that the Commission shall have and it does hereby retain jurisdiction of these proceedings for the purpose of making such further adjustments in the rates and charges hereby authorized as may hereafter appear proper in the light of other or further evidence received herein.

This order shall become effective ten (10) days from the date hereof.

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

Dated at San Francisco, California, this 17th day of May, 1944.

- *Richard Lachse*
- *Justus J. Craven*
- *Frank R. Havens*
- *Francis Deane*
- *Irving Russell*

CERTIFIED AS A TRUE COPY

Secretary, Railroad Commission
of the State of California

APPENDIX "A"

Local rates and charges of Southern California Freight Lines and Southern California Freight Forwarders may be increased not to exceed 8 per cent.

Local rates and charges of Valley Express Co. and Valley Motor Lines, Inc., joint rates and charges limited to transportation over the lines of these carriers, and joint rates and charges limited to transportation over the lines of these carriers and the lines of the Pacific Freight Lines and Southern California Freight Lines may be increased not to exceed 4 per cent.

Local rates and charges of Pacific Freight Lines and Pacific Freight Lines Express, joint rates and charges limited to transportation over the lines of these carriers, and joint rates and charges limited to transportation over the lines of Pacific Freight Lines Express and Southern California Freight Forwarders may be increased by 8 per cent between points on and south of the following line:

Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118 approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road

to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; southeasterly along U.S. Highway No. 99 to the point it intersects the Riverside County-San Bernardino County Line; thence easterly along said county line to the Colorado River. See Note.

Note: Incorporated cities and unincorporated communities which are bisected by said line will, for the purpose of applying the increases authorized herein, be considered as wholly south of said line.

COMPUTATION OF INCREASES

In connection with rates based on a multiple, portion or percentage of another rate (such as one and one-half times 1st class, one-half of 4th class or 120% of Class E) the increases herein authorized will be applied to the basic rate.

In computing increased rates and charges the following will govern in the disposition of fractions:

Where present rates or charges are $10\frac{1}{2}$ cents or less:

Fractions of less than $\frac{1}{4}$ or .25 of a cent omit.
Fractions of $\frac{1}{4}$ or .25 of a cent or greater but less than $\frac{3}{4}$ or .75 of a cent will be stated as $\frac{1}{2}$ or .50 of a cent.
Fractions of $\frac{3}{4}$ or .75 of a cent or greater, increase to next whole figure.

Where present rates or charges are over $10\frac{1}{2}$ cents:

Fractions of less than $\frac{1}{2}$ or .50 of a cent omit.
Fractions of $\frac{1}{2}$ or .50 of a cent or greater, increase to next whole figure.