Decision No. 38049

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA MILK TRANSPORT, INC. for Authorization to Increase Rates) Application No. 26095

BY THE COMMISSION:

ORIGINAL

Appearances

C. C. Stratton, for applicant.
Benjamin Chapman, for Office of Price Administration, interested party.
Christopher J. Harrison, for Adohr Milk Farms, Arden Farms Company, Carnation Company, and Golden State Company, Ltd., interested parties.
John Stevenson, for Teamsters Union, Local No. 93, interested party.

O P I N I O N

California Milk Transport, Inc. is the principal highway common carrier of milk and dairy products from dairies located in the Los Angeles milk shed to processing and distributing plants located in the Los Angeles metropolitan area. By this application, as amended, it seeks authority to increase its rates to the extent of two cents per ten-gallon shipping can and two cents per case of bottled milk, and to cancel from its tariff a rate item declared to be no longer appropriate. Virtually all of the traffic consists of fluid milk transported in shipping cans, and more than 95 per cent of the traffic originates in districts from which the present rate is 10 cents per can. The present and proposed rates include transportation of empty cans from the processing plants to the dairies without additional charge. The increase in gross revenue under the proposed rates, assuming no change in the traffic, would approximate 18 or 19 per cent.

Public hearings were had before Examiner Bryant at Los

Angeles, and the matter is ready for decision.[1]

C. C. Stratton, applicant's secretary-treasurer and general manager, testified in considerable detail concerning transportation requirements in the handling of milk, methods of operation employed by his company, difficulties of performing the required service under wartime handicaps and restrictions, and increased and increasing items of expense. He explained that the carrier picks up the product of each of the two daily milkings at from 400 to 450 dairies, and delivers the filled cans to eleven processing and distributing plants in the Los Angeles area. Between 14,000 and 15,000 cans are handled daily. Transportation charges are paid by the consignees. The processing plants have very little storage or "holding" capacity, and the milk must therefore be handled directly from the motor vehicles into the processing apparatus. In order that the plants may be operated efficiently under these conditions, it is required that the vehicles conform to schedules which permit the milk to flow evenly into the plants. The witness stated that his company could undoubtedly effect some economies in its own operation by disregarding the schedules and other service requirements of the distributors, but declared that changes of this nature would be more objectionable and more costly to the distributors than would a reasonable increase in rates.

In addition to the problems and increased expenses generally common to motor-vehicle operators under wartime conditions, this witness declared that applicant was particularly handicapped by

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[1] The proceeding was first heard and submitted on June 1, 1944. Thereafter, upon petition of applicant, further hearing was had and the matter again submitted on December 19, 1944. Upon applicant's further petition for opportunity to submit additional facts and data in support of its application, submission was again set aside, further hearing was had, and the matter submitted on May 23, 1945. Prior to the latest hearing applicant amended its application by proposing the increases hereinbefore stated in lieu of the increase originally sought of one cent per shipping can or per case of bottled milk.

inability to attract and hold sufficient and satisfactory labor. He stated that the type of men able to handle the milk trucks properly had been largely inducted into the armed forces; that his company had found it impossible to maintain a full complement of drivers; that it had become necessary to put two men on some of the vehicles whereas one man had performed the work in the past; that more overtime was being paid than heretofore; and that, all in all, the labor cost per can of milk had increased steadily and substantially. He asserted that the company had made every feasible effort to introduce economies compatible with maintenance of the required service, and to resist the pressure of rising costs, but nevertheless found its situation growing steadily worse.

In addition to the increased costs already actually incurred, a substantial increase in wages was declared by witness Stratton to be so nearly imminent as to be properly recognizable as an accomplished fact. In this connection he stated that the higher wages, including sick leave and holiday provisions, were necessary in order that they might correspond to those which had been applicable for a number of months to driver employees of the milk distributors. Stratton explained that the drivers, whether working for his company or for the distributors, belonged to the same union; that the union had long considered his company as merely an extension of the milk industry; that the conditions of employment with applicant were more difficult and less attractive than those offered by the distributors;[2] and that the existing wage differential contributed seriously to applicant's inability to attract and hold sufficient driver personnel.

[2] Applicant's terminal, situated at Clearwater, is relatively inaccessible from the Los Angeles area; applicant's drivers are required to work "split shifts," due to the necessity of maintaining twice-daily schedules; and applicant's drivers must handle the filled cans, weighing about 110 pounds each, from the ground level or other dairy loading point, in contrast to handling from vehicle-height platforms by the distributors' drivers.

He testified that the impending higher wages had been agreed upon between his company and the drivers' union, and that the proposed contract had been signed and submitted to the War Labor Board for approval, accompanied by the statement that the higher wages would necessitate an increase in applicant's transportation rates. Stratton asserted that the wage adjustment was fully justified, and in fact necessary; that unless it were placed into effect soon the company would be unable to hold sufficient driver personnel to continue service; and that the circumstances were such that he felt certain the approval of the War Labor Board would be forthcoming, perhaps within a matter of days.

Stratton testified that in addition to the wage increase thus impending, which had been under consideration in one form or another since June, 1944, the drivers had recently served notice that a further increase would be expected as of June 1, 1945. He made no claim that this latter wage demand should be recognized as an operating expense in the present application, stating that the proposed further wage increase was too uncertain in its existing status to be accorded definite recognition.

An attorney for the drivers' union, called as a witness by applicant, corroborated in general the testimony of Mr. Stratton as it related to pending wage adjustments. He added that the union undertook under an existing contract to supply applicant with drivers as required, but had been unable to do so under existing wages and working conditions. He said that anticipation of the new wage contract, with retroactive effect to June 1, 1944, had been an important factor in keeping men on the job.[3] This witness declared that a union representative had been sent to Washington, D.C., to seek

[3] It developed at the hearing that the pending contract probably does not include retroactive provisions.

first-hand information concerning the status of the contract pending with the War Labor Board, and had sent word a few days before the hearing of May 23, 1945, that the individual board members had passed the contract and would formally approve it very shortly.

Further evidence relative to the pending contract was offered by A. L. Sipes, assistant manager of California Milk Transport, Inc., who introduced an exhibit showing the estimated increased annual costs to be incurred by the company under the anticipated wage adjustment. According to this exhibit, the contract would increase drivers' wages by $18,683, and would serve indirectly to increase wages of garage and office employees by an additional $4,640,[4] bringing about a total added expense to the company of $23,323. The anticipated increase is approximately seven per cent of the current employee payroll.

A consulting agricultural economist specializing in the dairy industry testified on applicant's behalf. He described the seasonal fluctuations in the milk supply, and the transportation service requirements of the dairies and milk distributors. He stated that it was one of the functions of his office to anticipate changes in the supply demand, or flow of milk in the Los Angeles area, and to make predictions

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4 Witness Stratton had testified that the garage and office employees were not represented by the union, but were entitled to the same wage increase as had been agreed upon with the drivers; and that it was the policy of the company that no class of employee should suffer by reason of nonparticipation in a union. The wage increases indicated above were calculated as follows:

Drivers' 6% wage increase	$15,655.38
Sick leave	1,780.80
Four holidays	1,246.56
Garage 6% wage increase	3,054.36
Sick leave	581.12
Four holidays	278.96
Office 6% wage increase	726.04
	$23,323.22

for the guidance of the distributors and others. He declared that at least for the remainder of 1945 and the first months of 1946 he did not foresee any material change in the conditions under which applicant was operating.

Several exhibits relating to phases of the carrier's financial experience were introduced by applicant, principally through Mr. H. G. Butler, a consulting engineer with many years of experience in such matters. Comprehensive exhibits were also introduced by Mr. C. H. Jacobsen, a senior transportation engineer of the Commission's staff. In addition to a report offered at the original hearing in June, 1944, the Commission witness introduced and explained at the final hearing a further report which he prepared in May, 1945, showing in some detail the investment, revenue, and expense figures through February, 1945. The latter exhibit shows results of the company's operations starting with the year 1940, before and after eliminating from the book records a number of items which the witness considered not properly applicable. Although the Commission engineer gave no effect to the pending wage contract, of which he had "no definite knowledge," in all other respects his study was apparently acceptable to the applicant as a fair and proper disclosure of its financial condition and revenue needs. Witness Butler, testifying for the company, stated, "I have gone over Mr. Jacobsen's study very carefully, and I think he made a very sound and thorough analysis of the situation. I have no criticism to make of his adjustments."

The "rate payers" of this applicant are the milk distributors. Four large distributors, processing at least 90 per cent of the milk transported by applicant, were represented at the hearings. They did not introduce evidence nor participate in examination of the witnesses, but made a statement of position for the record. According to this statement, the rate increase originally proposed of one cent per can would not of itself require an advance in the ceiling prices on milk, but would constitute an item of expense which, added to other increased costs, might later cause the distributors to seek an increase in the price of milk.[5] However, even though they were to be denied permission to advance the selling price of milk, the distributors would nevertheless acquiesce in the granting of the one-cent rate increase, because their investigation showed that the applicant "is certainly entitled, because of increases in costs, to at least a one-cent increase, and if he does not get it, probably he will have to discontinue business." With respect to the amended application raising the proposed increase to two cents per can, the distributors "have no means of determining how much beyond the one cent the applicant is entitled to, but we will say that if he is entitled to any part of the additional cent, by reason of the same facts in connection with the original request for the one cent increase, and he does not get it, he will have to discontinue business." However, considering the very narrow profit margin of the distributors, they ask "that that second cent, or any part of it, be scrutinized very closely by the Commission, and that the application be granted only to the extent that the Commission feels that it is warranted."

The Office of Price Administration was represented at the hearings and examined some of the witnesses. One of its accountants

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[5] The four distributors were Adohr Milk Farms, Arden Farms Company, Carnation Company, and Golden State Company, Ltd. Adohr Milk Farms did not participate in the remainder of the statement; counsel was unable to get further instructions from that company by reason of absence of its officials from the city.

testified briefly, offering the opinion that, for the purpose of measuring revenue needs, reductions totaling $9,600 annually should be made in assertedly excessive amounts chargeable to salaries of officers and directors of the company. The federal agency did not take a position in opposition to granting of the application, but urged that the Commission examine the proofs carefully, and give particular consideration to the federal Stabilization Act, the national stabilization policy, and to the important part which control of transportation rates plays in the maintenance of ceiling prices on articles transported. Its counsel stated that the price balance of the milk industry is highly sensitive, and that any increase in transportation rates might have the effect of disturbing that balance.

Evidence introduced at the earlier hearings in this proceeding was predicated in large part upon the book records of the company. From the record thus developed it appeared that the carrier had enjoyed a long period of liberal earnings in the past, and that its accounting methods contained some peculiarities, the effect of which could not be accurately appraised from the evidence at hand. For these reasons, among others, the Commission engineer was assigned to make a detailed study of the operations and records of the company for revenue-measuring purposes, and to submit in evidence a report containing the essential results of his investigation. His report was received as an exhibit to which reference has been made.

In addition to setting forth the unadjusted book figures, the engineer made adjustments to expenses "with the thought of eliminating amounts not properly applicable as operating expenses, changing the amounts chargeable as garage parts and tires to reflect those actually used in maintenance of revenue equipment, and to show depreciation expense when the life of the revenue equipment is lengthened more properly to reflect its economic life." The revenue was likewise adjusted to eliminate nonoperating revenues. Inasmuch as these adjustments were accepted by the company, were not questioned by any of the other parties to the proceeding, and appear to us to be reasonable, it is unnecessary to discuss them in more detail.

The revenue and expense figures for recent years, as shown in the engineer's report, are set forth in the following table. The expense figures include provision for depreciation, but are exclusive of income taxes.

TABLE 1

	Unadjusted	Engineer's Adjustment	Adjusted
YEAR 1940			
Revenue - Total	$382,627	$ (580)	$382,047
Expenses - Total	322,675	(14,703)	307,972
Net Operating Revenue	59,952		74,075
Rate Base	108,348		123,071
Rate of Return	55.33%		60.19%
Operating Ratio	84.33%		80.61%
YEAR 1941			
Revenue - Total	$414,808	$ (8,942)	$405,866
Expenses - Total	390,407	(19,305)	371,102
Net Operating Revenue	24,401		34,764
Rate Base	123,221		148,277
Rate of Return	19.80%		23.45%
Operating Ratio	94.12%		91.43%
YEAR 1942			
Revenue - Total	$511,031	$ (480)	$510,551
Expenses - Total	461,913	(29,293)	432,620
Net Operating Revenue	49,118		77,931
Rate Base	143,576		181,977
Rate of Return	34.21%		42.82%
Operating Ratio	90.39%		84.74%
YEAR 1943			
Revenue - Total	$546,138	$ (12,123)	$534,015
Expenses - Total	530,388	(36,317)	494,071
Net Operating Revenue	15,750		39,944
Rate Base	158,960		176,103
Rate of Return	9.91%		22.68%
Operating Ratio	97.12%		92.52%
YEAR 1944			
Revenue - Total	$491,071	$ (8,362)	$482,709
Expenses - Total	508,883	2,112	510,995
Net Operating Revenue	(17,812)		(28,286)
Rate Base	97,954		156,216
Rate of Return	Loss		Loss
Operating Ratio	103.63%		105.86%
YEAR ENDING WITH FEBRUARY, 1945			
Revenue - Total	$499,235	$ (7,832)	$491,403
Expenses - Total	524,187	2,147	526,334
New Operating Revenue	(24,952)		(34,931)
Rate Base	95,774		142,641
Rate of Return	Loss		Loss
Operating Ratio	105.00%		107.11%

( ) - indicates deduction or loss

Examining the recent results more closely, Table 2 sets forth the detailed revenue and expense figures for the year 1944. Results for the 12 months ending February 28, 1945, appear to be somewhat less favorable to the company, but can not be used for the reason that the details which go to make up the totals for that period are not available in the record.

TABLE 2

YEAR 1944	Unadjusted	Engineer's Adjustment	Adjusted
Revenues:			
Freight	$ 482,709.48	$	$482,709.48
Rentals	1,607.50	(1,607.50)	
Miscellaneous	6,753.80	(6,753.80)	
Total Revenue	$ 491,070.78		$482,709.48
Expenses:			
Salaries:			
Executives	$ 25,800.00	$(3,000.00)	$ 22,800.00
Superintendent	6,000.00		6,000.00
Mechanics	46,857.58		46,857.58
Drivers	244,162.86		244,162.86
Office	11,556.72		11,556.72
O. S. S.	640.00		640.00
Directors	9,600.00	(9,600.00)	
Total Salaries	$344,617.16		$332,017.16
Field Expense	$ 5,510.13		$ 5,510.13
Gasoline	27,503.26		27,503.26
Oil	2,964.93		2,964.93
Garage	27,645.91	10,630.00	38,275.91
Tires	6,911.41	2,885.00	9,796.41
Office	3,737.65		3,737.65
Station	7,267.01		7,267.01
Damages	1,969.30		1,969.30
Insurance	23,089.53		23,089.53
Miscellaneous	409.75	(553.00)	(143.25)
Interest	732.63	(732.63)	
Depreciation	14,396.72	2,837.00	17,233.72
Legal	420.00		420.00
Franchise Tax	14,482.34		14,482.34
Taxes	3,119.40		3,119.40
Cal. Unemployment Tax	3,590.92		3,590.92
Social Security Tax	3,590.92		3,590.92
Advertising	1,224.84		1,224.84
Truck Rentals	3,514.90		3,514.90
Licenses	3,623.46		3,623.46
Repairs on Rental Property	353.97	(353.97)	
Butane	8,206.38		8,206.38
Total Expenses	$508,882.52		$510,994.92
Net Operating Loss	$ 17,811.74		$ 28,285.44

( ) - indicates deduction or loss.

The following Table 3 indicates the rate base figures as of December 31, 1944, as shown in the company's books and as adjusted by the Commission engineer:

TABLE 3

	Unadjusted		Adjusted	
Tangible Operating Property				
Lands		$ 12,090		$ 15,649
Buildings	$ 19,182		$ 19,182	
Less: Depreciation	16,806	2,376	8,830	10,352
Revenue Equipment	$214,768		$143,797	
Less: Depreciation	180,716	34,052	78,930	64,867
Garage Equipment	14,038		13,546	
Less: Depreciation	11,233	2,805	10,552	2,994
Office Equipment	$ 1,374		$ 1,374	
Less: Depreciation	265	1,109	886	488
Total Depreciated Value		$52,432		$ 94,350
Materials and Supplies		4,315		20,719
Working Cash		41,207		41,147
Rate Base		$97,954		$156,216

The figures set forth in each of the foregoing tables are as shown in the carrier's books and as adjusted by the Commission engineer. We shall now consider what further adjustments may be required, particularly for the purpose of making the necessary estimates for the future.

In addition to the traffic directly involved in this proceeding, California Milk Transport, Inc. performs a service as a "permitted" carrier, which consists of transporting cans of milk from dairies in its service area to its terminal at Clearwater.[6] For this service it assesses rates which are 5 cents per can below those main-

6 From the terminal, this milk is transported to destination at San Diego by Western Milk Transport, an associated company. Western Milk Transport is a partnership with eight persons participating, most of whom are stockholders in California Milk Transport, Inc. Employees of the latter carrier perform clerical and other services for Western Milk Transport, for which California Milk Transport, Inc. is compensated by Western. The report of the Commission engineer states, "From the standpoint of cost accounting it appears that the relationship of the two companies is clean-cut and properly handled."

tained in the common carrier operation for transportation from the same dairies to distributors' plants located in the Los Angeles metropolitan area. Revenue received from the permitted service in 1944 was $35,081, or approximately seven per cent of the total freight revenue of $482,709 earned by the carrier in that year.

The Commission witness and the engineer who testified for the company were in agreement that it would not be feasable or practicable to undertake a segregation of expenses assignable to the two operations. The Commission witness stated that while the charges assessed for the permitted service were approximately one-half of those assessed for the common carrier service, the average length of haul was also about half as great. He expressed the opinion that, all in all, the revenues derived from the two services were comparable. The company engineer, based upon similar reasoning, concluded that the permitted operations "were holding their own in proportion to the revenues derived from the common carrier operations." In view of this testimony, we shall assume, for purposes of this decision, that the relationship between revenues and expenses for the year 1944 was the same under either the permitted or common carrier operations as under the operations as a whole.

So far as results for the future are concerned, we must recognize that only the common carrier rates are involved in this proceeding. The Commission engineer assumed in his study of results under the proposed rates that the increased revenue per can would be applicable to all cans transported; and counsel for applicant stated at the final hearing that it was the company's plan and intention to increase the rates on all cans by a like amount. Rates for any services conducted by applicant as a permitted carrier may be increased without specific authorization of this Commission, but it is within our official knowledge that such rates may be subject to restrictions administered or imposed by the Office of Price Administration. The assumption that the permitted rates will be increased by the same amount per can as we may herein authorize in the common carrier rates may be questionable, particularly as it appears that the two classes of rates are on substantially different levels. Acceptance or nonacceptance of this assumption will have a considerable effect upon any estimate of applicant's future financial needs, since the unsatisfied revenue requirements will be appreciably greater if the burden is not shared by the permitted rates. However, as the record shows that it will be applicant's purpose to increase the rates on all traffic alike, and as the carrier is apparently satisfied to assume that its purpose will be accomplished, we shall predicate our conclusions hereinafter upon the premise that any increase authorized in the common carrier rates will be made applicable to all of applicant's traffic.

As hereinbefore indicated, the figures submitted by the Commission engineer gave no effect to the pending wage contract. Applicant's general manager testified that there was no doubt that the higher wages would have to be paid. We must consider the question, therefore, whether estimates of the carrier's future expenses should include provision for wages higher than those being paid when this application was submitted. This Commission will not allow rate increases upon the basis of wage adjustments which are purely speculative. For this reason the latest wage demand upon applicant, which may be opposed and which would in any event have to be presented to the War Labor Board for approval, modification or rejection, will be disregarded in our conclusions. However, the wage contract which was actually pending before the War Labor Board when this matter was submitted appears to be in quite a different status. We are satisfied from the evidence in this proceeding that wages and working conditions essentially as specified therein must and will be met by applicant without delay, and that provision therefor should be made in any estimate of the carrier's financial needs. The increased operating expense, as indicated in footnote 4 hereof, is estimated at $23,323 annually.

Applicant's tangible operating property includes certain lands having an historical value of $12,090 according to the carrier's balance sheet for December 31, 1944, and an historical value of $15,649 according to the Commission engineer, who apparently found some inconsistencies in the book figures. The value as of February 28, 1945, according to a competent appraisal, was $20,450.[7] This Commission has consistently used current market values of land in establishing rates based for utilities subject to its jurisdiction, and no reason appears for departing from that practice here. (See Decision No. 26512, in re Pacific Gas and Electric Company, 39 C.R.C. 49, 57.) An adjustment in the rate base will be made to reflect the appraised value of lands.

In his report the Commission engineer adjusted operating expenses by eliminating directors' salaries totaling $9,600 annually. He testified, however, that a director's fee of $20 per meeting, or $720 annually for the three directors, would not be improper. Such a fee would appear to be reasonable, and an adjustment in operating expenses will be made accordingly.

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7 The engineer's report states as follows: "An appraisal of this real item was made by Mr. Harry Wirtz, long associated in the banking and real estate business in the vicinity of Clearwater and who appears to be competent to appraise land in this location. This appraisal is $20,450 for 21 lots used as operating property. The appraisal was made April 12, 1945, and represents the value as of February 28, 1945.

Effect is given to these several adjustments in the following Table 4, which shows the operating and expense figures for the year 1944, before and after the adjustments indicated.

TABLE 4

Year 1944	Unadjusted	Adjusted by Engineer	Additional Adjustment	Adjusted
Revenue - Total	$491,071	$482,709	$	$482,709
Expenses:				
Salaries and Wages:				
Executives	25,800	22,800		22,800
Directors	9,600	0	720a	720
Other	309,217	309,217	23,323b	332,540
Garage	27,646	38,276		38,276
Tires	6,911	9,796		9,796
Miscellaneous	410	(143)		(143)
Interest	733	0		0
Depreciation	14,397	17,234		17,234
Repairs (Rental Property)	354	0		0
Other Expenses (See Table 2 for details)	113,815	113,815		113,815
Total Operating Expenses	$508,883	$510,995		$535,038
Net Operating Profit	$(17,812)	$(28,286)		$(52,329)
Rate Base (See Table 3 for details)	$97,954	$156,216	$ 4,801c	$161,017

( ) Indicates deduction or loss
a Directors' fees
b Pending wage adjustment
c Correction for current value of land

It may be observed that on the basis of the adjusted figures in Table 4 the operating revenue would have to be increased by an amount in excess[8] of $52,329 in order to meet the operating expenses, without any provision for return on investment or other form of profit. The record shows that 4,538,269 cans of milk were transported by applicant during the year 1944 in both its common carrier and permitted operations. An increase of one cent per can

8 A margin over the indicated operating loss would be required in order to meet gross revenue taxes of 3-1/4 per cent, which would of course advance with any increase in gross revenue.

would therefore have produced $45,383 in additional revenue, and the proposed increase of two cents per can would have produced additional revenue of $90,765. Allowing for the necessary adjustment in gross revenue taxes, it may be calculated that an increase of approximately 1.19 cents per can would be required to meet the adjusted operating expenses, without provision for profit.

For comparative purposes, the calculated results under several different rates of increase per can, including those originally and subsequently proposed by applicant, are set forth in Table 5. The figures in this table are predicated upon the adjusted figures shown in Table 4, and include the required adjustments in gross revenue taxes. Income tax figures include both state and federal assessments.

TABLE 5

	1 Cent Increase	1-1/4 Cents Increase	1-1/2 Cents Increase	1-3/4 Cents Increase	2 Cents Increase
Operating Revenue	$528,092	$539,437	$550,783	$562,129	$573,474
Operating Expense	536,514	536,883	537,251	537,620	537,989
Net Oper. Revenue	(8,422)	2,554	13,532	24,509	35,485
Rate Base	161,017	161,017	161,017	161,017	161,017
Rate of Return	Loss	1.59%	8.40%	15.22%	22.04%
Operating Ratio	101.59%	99.53%	97.54%	95.64%	93.81%
Income Taxes (Approx.)	$ -	$725	$ 4,013	$ 7,441	$13,513
After Income Taxes					
Net Oper. Revenue	$(8,422)	$1,829	$ 9,519	$17,068	$21,972
Rate of Return	-	1.14%	5.91%	10.6%	13.65%
Operating Ratio	101.59%	99.66%	98.27%	96.96%	96.17%

Although California Milk Transport, Inc., enjoyed a substantial measure of prosperity in the past (Table 1), the record shows that it has suffered operating losses consistently since 1943. Beyond question, the maintenance of an adequate transportation service for the future requires that applicant be permitted to improve its revenue position without unnecessary delay. Since it does not appear that further operating economies consistent with the required service may be made under existing conditions, the carrier must be permitted to establish increased rates sufficient to meet necessary operating expenses and to return some reasonable measure of profit.

The question of what constitutes a reasonable profit for any carrier is one which can be answered only by reference to and consideration of many complex factors. Under circumstances somewhat approaching "normal," the rates of return and operating ratios which would accrue under the proposed increase of two cents per can (Table 5) might be deemed reasonable, and perhaps necessary in order to provide a safe operating margin. In the present proceeding, however, we must accord recognition, among other things, to the fact that applicant's "rate payers" are assertedly operating on a narrow and controlled margin of profit; the fact that whatever increase is allowed in rates may possible be reflected in the selling price of a basic food commodity; and the existence of a national policy of price stabilization under which, generally speaking, increases in the rates of common carriers are to be granted only to the extent necessary to avoid actual impairment of service.

The rate increase of one cent a can, as originally sought, would now be clearly insufficient, since it would not enable the carrier to meet even the necessary expenses of operation. Referring to Table 5, it is evident that an increase of one and one-half cents a can would be the minimum which may be considered justified. As developed in that table, the rates of return under such an increase would be 8.40 per cent before income taxes, and 5.91 per cent after income taxes; the operating ratios would be 97.54 per cent before income taxes, and 98.27 per cent after income taxes. These rates of return would be quite low for a relative unstable operation such as the one here involved, and the operating ratios would be high, perhaps dangerously high. The operating ratio of 97.54 per cent before income taxes would mean, of course, that only 2.46 per cent of the gross operating revenue would be available for income taxes and profit. When it is observed that the fluctuations in operating ratio from year to year since 1940 have ranged from 6.69 per cent to 13.34 per cent (adjusted figures, Table 1), it must be recognized that the operating margin of only 2.46 per cent would be scant. Nevertheless, under all of the existing circumstances and conditions, and upon this record, we are of the opinion that an increase of one and one-half cents per can will be justified.

As the principal highway common carrier of fluid milk from dairies located in the Los Angeles milk shed, the operations of California Milk Transport, Inc. are without question highly essential to the dairies, to the processing and distributing plants, and to the consuming public. We are convinced that the rate increase hereinafter authorized is necessary to avoid impairment of this essential service. We are also convinced that to withhold such authorization would subject applicant and those dependent upon the service it renders to substantial hardship, and would prevent the adjustment of rates which are inequitable under the circumstances disclosed by the record.

Upon careful consideration of all of the facts and circumstances of record in this proceeding, the Commission is of the opinion and finds as a fact that an increase in the rates of California Milk Transport, Inc., in the amount of one and one-half cents per ten-gallon can and per case of fluid milk or cream, is fully justified and necessary to the maintenance of adequate transportation. We further find that good cause has been shown for establishing such increased rates on less than 30 days' notice, and that such rates should be established on not less than five days' notice to the Commission and to the public.

Applicant's incidental proposal to cancel from its tariff a rate item declared to be no longer appropriate has not been justified. The item in question provides a rate reduction of one cent per can on certain shipments of 20 cans or more. Applicant showed only that it had intended to cancel the item some time ago; that the item would create ill will among some consignors if they were the ones to pay the charges; and that the total difference in revenue would be only about $2.00 a day. This showing is insufficient to justify elimination of the rate item.[9]

O R D E R

The above entitled application having been duly heard and submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that California Milk Transport, Inc. be and it is hereby authorized to establish, on not less than five (5) days' notice to the Commission and to the public, an increase in its rates for the transportation of milk and cream, in the amount of one and one-half cents per ten-gallon can and per standard case.

IT IS HEREBY FURTHER ORDERED that in all other respects the above entitled application be and it is hereby denied without prejudice.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicant will never urge before this Commission in any proceeding under Section 71 of the Public Utilities Act, or in any other proceeding, that the

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9 Witness Stratton testified that the rate item had not been observed for two years, due to a misunderstanding of the tariff, and that certain shippers had therefore been overcharged. Applicant's attention is hereby specifically directed to the provisions of Section 17(a)2 of the Public Utilities Act. Prompt refund of any charges collected in excess of those named in the applicable tariff will be expected.

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 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.

This order shall become effective fifteen (15) days from the date hereof.

Dated at San Francisco, California, this 26th day of June, 1945.

Harold Anderson

Justus F. Craemer

Richard Sachse

Ira H. Rowell

Commissioners