

Decision No. 38121

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of MERCHANTS TRANSPORTATION CO., )  
a corporation, and NICKOLS TRANS ) Application No. 26654  
PORTATION CO. (HENRY J. NICKOLS, )  
Owner) for an increase in rates.)

BY THE COMMISSION:

Appearances

Reginald L. Vaughan, for Applicants.  
J. J. Deuel and Edson Abel, for California  
Farm Bureau Federation.

OPINION

Applicants are common carriers by vessel. Their tariffs name rates for the transportation of property between points on San Francisco, San Pablo and Suisun Bays, Sacramento and San Joaquin Rivers and tributary waters. In this proceeding they seek authority to increase rates for the transportation of potatoes, onions and carrots, which constitute approximately 85 per cent of the total traffic.

A public hearing was had at San Francisco on June 4, 1945, before Examiner Mulgrew.

The record shows that Merchants is not handling traffic between all the points for which increased rates are proposed. It was explained that ordinarily the bulk of its traffic consisted of potatoes, onions and carrots transported from Sacramento and San Joaquin River and Delta points to piers in San Francisco Bay but

Originally, applicants also requested authority to increase rates on celery, fertilizer and grain but at the hearing they withdrew their request in so far as these commodities were concerned.

that these piers have been taken over by the Federal Government for the duration of the war. Since 1942 Nickols has not been providing service, all of its vessels having been operated by or for the Federal Government.

For the last several years potatoes, onions and carrots have largely moved to Stockton, Terminous, Middle River, Antioch, Isleton, Locke, Hood and intermediate points. The present rates on potatoes and onions to these points are  $7\frac{1}{2}$  cents per 100 pounds for packages weighing 100 pounds or more and 8 cents per 100 pounds for smaller packages. These rates are subject to minima of 200 and 400 packages, respectively. Merchants has erroneously applied them to shipments of carrots handled during the past two years. The published rate on carrots is 14 cents per 100 pounds, minimum weight 30,000 pounds. Applicants propose to increase the potato and onion rates from  $7\frac{1}{2}$  and 8 cents to 10 and 12 cents and to make these rates applicable to the carrot traffic.<sup>2</sup> Nickols seeks authority to adjust its rates at this time so that it will be in a position to operate profitably when it can resume service.

A consulting engineer with many years experience in cost-finding for public utilities introduced two exhibits showing, among other things, a breakdown of Merchants' revenues by commodities, the operating results for the years 1943 and 1944, and the effect of the proposed increased rates based upon the company's 1944 operations. A summarization of this showing follows:

---

2

It is not necessary to describe other proposed increases because of the conclusions hereinafter reached.

	<u>Under Present Rates*</u>		<u>Under</u>
	<u>1943</u>	<u>1944</u>	<u>Proposed Rates</u>
			<u>1944</u>
Revenue	\$75,324	\$67,055	\$86,178#
Expenses	84,516	79,290	81,012**
Net Return ##	(9,192)	(12,235)	5,166

( ) - Net loss.

\* - In both 1943 and 1944 Merchants observed lower rates on carrots than its tariff provided. In 1944 celery was handled at a rate lower than the tariff rate (10 cents per crate instead of 12½ cents). On the basis of tariff rates revenues would have been \$78,320 and \$70,712 for 1943 and 1944, respectively, and the losses would have been \$6,196 and \$8,578.

# - Error in calculation corrected.

\*\* - Includes income taxes based upon 25% of the net.

## - The two vessels comprising Merchants' floating equipment have a present book value of \$17,918. They were appraised by a Stockton shipbuilder at \$27,500 in 1945. Necessary working capital was estimated by the engineer as \$6,511, on the basis of average expenses (not including depreciation) for one month.

The engineer testified that the expenses shown were taken from Merchants' books with no adjustments for 1944, but that he had added \$3,000 to the expenses for 1943. He explained that Weyl-Zuckerman & Company, the sole owner of Merchants, was paid \$3,000 for administrative and supervisory services performed for Merchants in 1944. He said that although Weyl-Zuckerman had performed similar services in 1943 no payment for them was made in that year. The engineer characterized this payment as "a modest sum for the service rendered."

A study of the cost of transporting the commodities upon which increased rates are sought and those upon which no increases are proposed, the witness said, was not feasible. Such a study, he contended, would be of little value inasmuch as the revenue increase must come from the potato, onion and carrot traffic which comprises about 85 per cent of the total tonnage. Rates on the other commodities, he said, are generally already on a higher level than rates now in effect on potatoes, onions and carrots. The secretary for Merchants attributed its operating losses during the last two years

primarily to higher wage scales, a decrease in employee efficiency and more overtime work. The witness expressed the belief that such costs would continue during the war period and that, thereafter, the same higher wage scales would obtain with possibly increased worker efficiency and less overtime. He did not anticipate any diversion of traffic to other carriers if the proposed rates were made effective for the reason that they are not now competing for this business.

No one opposed the granting of this application. A representative for the California Farm Bureau Federation requested that both applicants be authorized to establish the proposed rates in order that transportation from the River and Delta points, some of which he said are not accessible to any other means of transportation, be preserved. The record shows that applicants gave the Office of Price Administration the required 30 days' notice and consented to that agency's intervention in this proceeding.

It is clear that Merchants' rates on potatoes and onions between the points where traffic is being moved must be increased in order to provide it with sufficient revenues for the maintenance of this essential service. It has not been demonstrated, however, that increases to 10 and 12 cents, as proposed, are warranted. On the basis of Merchants' 1944 experience, 9½ and 11½ cent rates will return, after taxes, a net of \$2,652. To this extent increased rates for Merchants appear justified by the showing made. Nickols is not conducting any utility operations whatsoever and Merchants does not now serve all of the points designated in its tariff. It has not been shown to what extent, if at all, the increased rates may be necessary when these suspended operations are resumed.

As previously pointed out, Merchants observed its potato and onion rates on shipments of carrots in lieu of the higher applicable class rates and concedes that carrot rates should be adjusted to the potato and onion level. Establishment of the increased rates authorized for potatoes and onions will be conditioned upon Merchants publishing like rates on carrots. On past shipments of carrots and celery, Merchants appears to have violated the requirements of Section 17(a)2 of the Public Utilities Act by observing rates different from those provided by its tariff. It will be expected to collect the undercharges on the shipments involved or to seek authority to waive these collections in the event it considers the tariff charges excessive, unreasonable or otherwise unlawful.

Upon consideration of all the facts of record we are of the opinion that rates of the volume and between the points covered by tariff items specified in the first ordering paragraph have been justified. The application in all other respects has not been justified and will be denied.

#### C O R D E R

A public hearing having been had in the above entitled application and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that applicant Merchants Transportation Company be and it is hereby authorized to establish, on not less than one (1) day's notice to the Commission and to the public, a rate of  $9\frac{1}{2}$  cents in Item No. 215-A of its Local Freight Tariff No. 1, C.R.C. No. 1 (Woyl-Zuckerman and Company series), in lieu of the present rate of  $7\frac{1}{2}$  cents and rates of  $9\frac{1}{2}$  and  $11\frac{1}{2}$  cents in Items Nos. 235 and 240 of that tariff in lieu of the present rates of  $7\frac{1}{2}$  and 8 cents, respectively, and to effect increases in rates on potatoes and onions to

other points to the extent necessary to avoid departures from Section 24(a) of the Public Utilities Act:

IT IS HEREBY FURTHER ORDERED that in all other respects the above entitled application be and it is hereby denied.

The authority herein granted shall be void unless exercised within ninety (90) days of the effective date hereof and unless the rates herein authorized for the transportation of potatoes and onions, other than seed, are also established for the transportation of carrots from and to the same points.

This order shall become effective upon the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of August, 1945.

Harold Rudman  
Justin A. Coghlan  
Richard H. Chase  
Francis J. Cow  
Edward J. Louell  
Commissioners