

Decision No: 38265

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ALBERT L. WEBB for authority to file )  
and approval of revised tariff elimin- )  
ating obsolete provisions in current )  
tariff and setting forth rate increases )  
necessary to sustain business: )

Application No: 26667

BY THE COMMISSION:

**ORIGINAL**

Appearances

Wallace L. Ware, for applicant.  
Earl Goldberg, for G.F.D. Lines,  
Inc., interested party.

O P I N I O N

Albert L. Webb, an individual operating as a highway common carrier, a city carrier, a radial highway common carrier, and a highway contract carrier, is engaged in the transportation of motion picture theatrical equipment between Los Angeles and theaters located in Los Angeles, Pasadena, Tujunga and intermediate points. By this application he seeks authority to effect certain increases and adjustments in his highway common carrier rates and charges.

A public hearing was had before Examiner Bryant at Los Angeles, and the matter is ready for decision.

Applicant's revenues are received from approximately 37 theaters, of which all but about 5 are on his certificated route. His services include pickup of motion picture film, advertising matter and other accessories at film exchanges in Los Angeles, the delivery of such material to the theaters, and its return to the exchanges. For these services applicant publishes weekly and monthly rates, and rates which are based upon the number of program changes.

Webb stated that his present rates no longer yield sufficient revenue to return his costs of operation, and that he is operating at a substantial loss. He asserted that an increase in rates was essential if he were to continue his services.

Applicant called as a witness a public accountant who introduced an exhibit setting forth results of applicant's operations as reflected in his books for the years 1942 through 1944 and for the quarter ending March 31, 1945. According to this exhibit, profits of \$2,151 and 1,413 were earned in 1942 and 1943, respectively; a loss of \$1,320 was incurred in 1944; and a further loss of \$274 was incurred in the first quarter of 1945. Applicant said that his books did not show all of his expenses, and that expenses which were not shown were travel expense, solicitation expense, social security expense for the first quarter of 1945, legal expense, auditing expense, cost of emergency use of his private automobile when his trucks break down, cost of truck stamps for 1945, C.O.D. bonding expense for 1945, and miscellaneous expenses.

The accountant did not develop rate base figures. As set forth in his exhibit, the total assets consisted of trucks and shop equipment having a depreciated value of \$840, \$1,435, \$1,077 and \$983 at the end of the periods indicated above plus cash in the average amount of \$550.

An associate transportation engineer of the Commission's staff introduced an exhibit setting forth results of a study he had made of applicant's operations. This exhibit contained revenue and expense figures which corresponded to those shown by the accountant;

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The accountant testified that social security expense was about \$30 for the first quarter of 1945, that auditing expense was about \$75 for the same quarter, and that travel and miscellaneous expense was about \$10 per month. Applicant's attorney stated that legal expense would be about \$200 for the first quarter of 1945. It was estimated that the average annual legal and auditing expense would be not less than \$125, and that the cost of emergency use of his private automobile would be about \$63.

it set forth rate bases developed by the engineer in the amounts of \$1,504 for 1942, \$2,226 for 1943, \$1,731 for 1944 and \$1,616 for the first quarter of 1945; it showed that applicant's operating ratio had risen from 82.27 per cent for 1942 to 114.20 per cent for 1944. The engineer did not take into consideration expenses not recorded in the books. Based upon his investigation he stated that in his opinion there was ample justification for the rate increases sought.

Under applicant's proposal, he would assess only weekly rates, which would be higher than those now provided in his tariff for the same service. He would cancel his present monthly rates, and rates predicated upon the number of program changes. He would also establish a penalty charge for return calls to certain theaters which now receive this service without extra charge.

The application sets forth a comparison, as shown in the margin below, of the present tariff rates and those now proposed.

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Comparison of Present and Proposed Rates

Between Los Angeles and	Present Rates			Proposed Rates
	Per Week	Change of Program	Per Month	Per Week
Glendale	\$4.00	(1) \$2.00 (2) 4.00 (3) 5.70	\$15.90	\$6.50
Montrose	4.24	—	—	7.00
La Canada	4.24	—	—	8.00
Tujunga	4.24	—	—	8.00
Alhambra )	(	(1) 2.00	—	
South Pasadena )	(4.00	(2) 4.00	—	6.00
	(	(3) 5.70	—	
Pasadena	4.00	(1) 2.00 (2) 4.00 (3) 5.70	—	7.00

(1) One change of program and lobby display.

(2) Rate applies when two changes of program and lobby display are tendered to carrier at one time.

(3) Rate applies when three but not more than five changes of program and lobby display are tendered to carrier at one time.

Applicant estimated that the new rates would increase his revenue approximately 30 per cent. He said that of the rates set forth in his current tariff, only the \$4.24 and \$5.70 rates were applicable; that the \$2.00 and \$4.00 rates were mere "paper rates" and were obsolete, and that none of his current rates were compensatory. The penalty charge he would assess would apply to return calls made the same day to theaters located in the communities of Tujunga, Montrose and La Canada only. He explained that it was frequently necessary to make return calls for films not available on his first trip. He thought that a charge of \$3.00 would be proper for each such extra call.

Applicant testified that he had discussed his proposed rates with his patrons and that none of them offered any objections to the intended increases. His attorney stated that he had been informed by the local office of the Office of Price Administration that it would not protest the proposed rates. No one appeared at the hearing to oppose the granting of this application.

The record in this proceeding is convincing that applicant's operations since 1943 have resulted in losses, and that his ability to continue serving the public may be jeopardized unless he is afforded relief. But whereas his contention that additional revenue is necessary was well supported, little justification was furnished for the volume of the estimated increase in revenue or for the particular rates sought.

A comparison of applicant's proposed weekly rates with those published in his effective tariff shows that the current rates would be increased 50 to 89 per cent. Perhaps special circumstances may justify the different rates of increase; however, no such circumstances were urged in justification of the proposal. Neither

were special circumstances urged in justification of the penalty charge for return trips made the same day to theaters located in Tujunga, Montrose and La Canada; apparently applicant would make return trips without charge to theaters in other communities he serves.

It is not clear from the record that applicant's reported revenue, as derived from his certificated operations, resulted from the application of his published tariff rates. The basis was not disclosed for his assertion that the "going" rate between Los Angeles and Glendale, Alhambra, South Pasadena and Pasadena is \$5.70. This rate is applicable only "when three but not more than five changes of program and lobby display are tendered to carrier at one time." It was not shown that changes of program and lobby displays are tendered only in such quantities and under such conditions as to require the application of the \$5.70 rate; nor was it shown why applicant's published weekly rates, which do not limit the number of program and lobby display changes, would not be applicable. On the contrary, it can be concluded from an analysis of the record that published tariff rates other than the \$5.70 rate should often have been assessed.<sup>3</sup>

The evidence of record does not establish the need for a revenue increase as great as that which would apparently accrue under the rates proposed, nor have those rates been justified in their relation to the present rates or to each other. In view of the limited scope of applicant's operations, of his proportionately large losses in relation to his capital, and of the asserted willingness of his

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<sup>3</sup> Applicant's attention is hereby specifically directed to Section 17(a)2 of the Public Utilities Act. It is expected that he will review his charges and make prompt refund of any which were collected in excess of those named in his tariff.

patrons to pay higher charges, we are reluctant to withhold a measure of the relief sought. However, since the revenues were apparently derived in part from rates other than those provided in the tariff, and since it is not possible from the available evidence to compute the revenue which would accrue if the applicable tariff rates were applied without deviation, we have not been supplied with the information which would be necessary to measure the revenue effect of any partial grant of the authority sought. The record affords no sound basis for approximating the amount of revenue which would accrue under an increase of the present tariff rates by any selected amount or percentage. It is apparent, for example, that if the rate of \$4.00 per week now published to Glendale, Alhambra, South Pasadena and Pasadena were advanced to any figure less than \$5.70, applicant's revenue would not thereby be made greater than that collected in the past. To increase the tariff rates by a fixed percentage in any amount sufficient materially to assist the carrier would be to establish rates in some instances higher than those proposed. On the other hand, if we were to advance the tariff rates by any uniform fractional amount of the increases sought, we would be authorizing widely varying degrees of increase without any showing of special circumstances to justify such variations.

In an application for authority to increase rates, it is incumbent upon the applicant to furnish the Commission with complete factual evidence to justify the relief sought. Under the circumstances in this proceeding there is no alternative but to deny the application. If the applicant, after consideration of the evidentiary infirmities pointed out in this opinion, is prepared to make a complete factual showing, he should request that a further hearing be scheduled to afford him the opportunity to do so.

O R D E R

A public hearing having been held in the above entitled application and the matter submitted, and based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the above entitled application 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 2<sup>nd</sup> day of October, 1945.

Harold C. ...  
Justice F. ...

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Commissioners