

ORIGINALDecision No. 39390

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HARRY W. RAE and LILLIAN EILEEN RAE)
 dba BISHER TRUCK LINE for authority) Application No. 27384
 to increase their rates of charges.)

Appearances

H. J. Bischoff, for applicant.
 Phillip Kraus, for Office of Price Administration,
 protestant.

O P I N I O N

Harry W. Rae and Lillian Eileen Rae, doing business as Bisher Truck Line, operate as a highway common carrier for the transportation of general commodities between San Diego and Ramona (San Diego County), serving intermediate points. By this application they seek authority to increase rates for the transportation of fresh milk in 10-gallon shipping cans.

The application was submitted at a public hearing held before Examiner Bryant at San Diego on August 3, 1946.

The record shows that applicants are engaged in businesses other than the one involved in this proceeding, thus necessitating allocations of expense for the purpose of developing the cost of performing the service in question. Gross revenue for the year 1945 consisted of \$32,105 received from a hay and feed business (after deducting cost of purchases), and \$54,280 received from the transportation business. An estimated 70 per cent of the transportation revenue was derived from the highway common carrier operation, and nearly 30 per cent from the carriage of hay as a contract carrier. Only \$9,564, or about 18 per cent of the transportation revenue,

resulted from the milk hauling involved in this application.

According to an exhibit attached to the application, the expenses incurred in the combined transportation services for the year 1945 were \$52,745, leaving a net profit of \$1,683 and an operating ratio of 97 per cent. For the same period, according to applicants' allocated figures, the expense of the milk transportation alone was \$10,144, resulting in an operating ratio of 106 per cent and a net loss of \$580. It is applicants' position in this proceeding that the proposed higher rates for the transportation of milk are necessary in order that adequate revenue may be earned by the transportation services as a whole, and also in order that the milk hauling may be self-sustaining and not cast a burden upon other traffic.

Applicants' witness testified in general terms to various increased expenses occurring in 1946, but did not introduce operating figures subsequent to December 31, 1945. Operating figures from the company's books for the six months ending June 30, 1946, introduced by a senior engineer of the Commission's Transportation Department, indicate that the gross transportation revenue was \$30,965, and the expenses \$28,925, resulting in a net income of \$2,040 and an operating ratio of 93 per cent. Segregated figures for the milk transportation involved in this application are not available;

This application was filed on April 3, 1946. Subsequently the Commission, following a state-wide investigation, authorized common carriers of general commodities, including milk, to increase their rates by approximately 12 per cent.¹ Under this authority, the principal rates of Bisher Truck Line were advanced on June 10, and the milk rates were advanced on July 6, 1946. The several rates

¹ Decision No. 39004 of May 21, 1946; in Case No. 4808 (46 C.R.C.486)

directly involved in this proceeding are as follows:

Rates for transportation of fresh milk in 10-gallon cans. Rates are stated in cents per can, and include return of empty cans:

<u>Between San Diego and -</u>	<u>Prior to July 1, 1946</u>	<u>Effective July 1, 1946</u>	<u>Sought in this Application</u>
Ramona	15	17	18
Lakeside	10	11	12
Santee	10	11	12

The record shows that virtually all of the milk originates in the Ramona district, from which point the rate increase of July 1 was 13.33 per cent. If this percentage increase were applied to applicants' segregated figures for the milk transportation performed in 1945, the resulting figures would be \$10,840 gross revenue, \$10,144 expenses, \$696 net income, 93.6 per cent operating ratio. In the absence of segregated expense figures, the record affords no basis for developing the results of the milk operation for a later period.

Applicants advanced various reasons why the milk rates were considered to be inadequate. Their witness declared that the 1945 expenses, as allocated to the milk hauling for purposes of this application, made no provision for administrative expense; that wages and other expense items had advanced in 1946; that the milk rates were substantially lower than the class rates for shipments of comparable weights; that the contract hauling of hay was performed at rates materially above those established by this Commission as minimum. The reasons advanced, whether considered separately or collectively, are not sufficiently tangible to permit a finding that the proposed increased rates are justified.

The Office of Price Administration participated in cross-examination of the witnesses, and, when the evidence was concluded, took the position that the increased rates had not been justified. No shippers were represented. However, one of the exhibits indicated that the dairymen had agreed to the sought rates. The creameries, which pay the transportation charges directly but assertedly deduct such charges from amounts paid to the dairymen, apparently received no notice of the proposed increase nor of the hearing in this matter.

Under Section 63(a) of the Public Utilities Act, no public utility may raise any rate except upon a showing before the Commission and a finding by the Commission that such increase is justified. In a proceeding involving a proposed increase in rates it is incumbent upon the applicant to make an affirmative showing as to the necessity for the adjustment by the presentation of complete factual data. The information of record here does not support a finding that the increase sought is justified. The application will be denied.

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 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 10th day of September, 1946.

Harold P. Hild
Justin J. Cooney
Francis D. ...
...
P. B. ...
Commissioners