

Decision No. 39785.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application )  
of (certain railroads (and connect- )  
ing highway carriers and water )  
lines) for authority to increase )  
freight rates and charges (1946). )

Application No. 27446

ROWELL, Commissioner:

Appearances

(A list of appearances is contained in  
Appendix "A" hereof)

O P I N I O N

In Ex Parte No. 162, Increased Railway Rates, Fares and Charges, 1946, and Ex Parte No. 148, Increased Railway Rates, Fares and Charges, 1942, reopened, the Interstate Commerce Commission on December 5, 1946 authorized the Class I railroads of the United States, The American Short Line Railroad Association membership, and certain other carriers subject to the Interstate Commerce Act to effect a general increase in rates, fares and charges.<sup>1</sup>

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<sup>1</sup> The increases authorized by the Interstate Commerce Commission apply on the basic rates and charges, determined by excluding from the rates now in effect increases of 6 per cent on commodities generally and of 3 per cent on basic products of agriculture, animals, animal products and products of mines. Except on products of agriculture and on livestock in carloads, the order, generally speaking, authorizes an increase of 20 per cent in the basic rates. On products of agriculture, carloads, except citrus fruits and on livestock, carloads, except horses and mules, the rates were increased 15 per cent. Certain of the commodities and commodity groups taking the 20 per cent increase are subject to given maxima, stated in cents per ton or per 100 pounds. As to a few commodities or commodity groups the increase was not stated percentagewise but in specified amounts per ton ranging from 7½ cents on lignite to 30 cents on coal rates over \$2.25 per ton. The rates for certain miscellaneous services were increased by percentages ranging from 15 to 25 per cent. For pickup and delivery service a minimum rate of 50 cents per 100 pounds is provided. In addition, the temporary 10 per cent increase in passenger fares previously authorized was made permanent.

The applicants here are among those who were before the Interstate Commerce Commission. They request authority to increase their California intrastate local and joint freight rates and charges by amounts corresponding to those they have been authorized to establish interstate by the Interstate Commerce Commission's order of December 5, 1946. They also seek similar increases in their joint rates with highway and water carriers.<sup>2</sup>

As to less-carload intrastate rates an increase of 13.72 per cent on commodities generally and of 15.36 per cent on basic products of agriculture, animals, animal products and products of mines was effected June 10, 1946.<sup>3</sup> Therefore, for the most part, applicants' request, if authorized, would mean a further increase in less-carload rates of 1.23 per cent on commodities generally and 4.64 per cent on agricultural and related products.

Hearing was had on December 18, 1946, at San Francisco.

The record made before the Interstate Commerce Commission was introduced as a part of the record herein and was supplemented by oral and written evidence pertaining to the California intrastate situation. The interstate proceeding was conducted with the cooperation of representatives of the State regulatory bodies under the provisions of Section 13(3) of the Interstate Commerce Act.<sup>4</sup>

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<sup>2</sup> No increase in passenger fares is requested. The 10 per cent increase made permanent by the Interstate Commerce Commission order of December 5, 1946 is already in effect on a permanent basis in California.

<sup>3</sup> These increases were authorized pursuant to Decision No. 39004 in Case No. 4808, a general investigation proceeding embracing rates, rules and regulations for the transportation of all classes of property by California for-hire carriers.

<sup>4</sup> The Western states were represented on the cooperative committee of state commissioners by Commissioner Cornell of Idaho.

The record shows that applicants' operating costs have advanced substantially due to increases in wages and in prices of materials and supplies, and that these increases have been accompanied by a decline in traffic and ton-mile revenues. A rail witness estimated that, on the basis of the 1946 operations of six Class I railroads operating in California, increases in wages since 1940 amount to \$150,000,000, or 30.3 per cent. Commencing January 1, 1947, the rail carriers will experience a further increase in payroll taxes of 2.25 per cent. A comparative showing of the cost of materials and supplies was made. It indicated that, with few exceptions, material and supply costs have increased substantially. Particular attention was called to an increase in fuel oil costs of 62 per cent.

Statistics were submitted separately by the accounting officers of the six rail lines to show their rates of return on the book value of their properties. Southern Pacific figures are for their Pacific Lines, the balance are system figures. They disclose the following rates of return of the years 1929 to 1945,

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<sup>5</sup> These railroads are The Atchison, Topeka and Santa Fe Railway Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Southern Pacific Company, Union Pacific Railroad Company and The Western Pacific Railroad Company. They operate 96 per cent of the total railroad trackage in California.

inclusive, and for the first nine months of 1946:

RATES OF RETURN IN PER CENT

YEARS	CARRIERS					
	A.T.S.F.	N.W.P.	P.E.	S.P.	U.P.	W.P.
1929	6.21	.42	1.73	3.98	5.01	1.93
1930	3.86	D	.58	2.83	3.83	1.44
1931	2.62	D	.28	1.58	2.68	.18
1932	1.48	D	D	.63	1.55	.36
1933	1.17	D	D	.75	2.06	.64
1934	1.27	D	D	1.44	2.02	.90
1935	1.33	D	D	1.56	2.05	.72
1936	1.57	.39	D	2.35	2.64	.08
1937	1.44	D	D	1.50	2.38	D
1938	1.50	D	D	.90	2.05	D
1939	1.58	D	D	1.50	2.06	1.18
1940	1.98	D	D	2.20	2.32	1.86
1941	3.32	D	.49	3.61	2.56	2.93
1942	6.74	1.71	3.50	6.01	5.70	6.02
1943	5.26	.54	7.07	4.05	3.79	11.67
1944	4.70	1.02	3.41	2.99	3.34	6.46
1945	2.79	.38	1.51	2.77	2.75	3.26
9 mos. 1946	2.50	D	.15	1.32	1.70	2.07

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It was pointed out that the carriers' total traffic, both inter and intrastate, was considered by the Interstate Commerce Commission in its determination of the amount of increase which should be granted. The carriers urged that for this reason and because revenue from freight traffic is of unusual importance to California railroads, intrastate increases similar to those granted by the federal commission should be established here if the full relief found to be necessary by that commission is to be realized. Southern Pacific, Santa Fe and Union Pacific estimate that on the basis of expected 1947 operating experience their rate of return would be 2½ per cent under the rates sought before the Interstate Commerce Commission. The sought rates were for the most part 5 per cent higher than those authorized by the federal commission and applied for here.

No one opposed the granting of increased rates. However, there were several objections going to the volume of the increases sought on particular commodities or to the manner in which the increases are proposed to be effected. The Rock, Sand and Gravel Producers Association of Northern California objected to the rail request for a flat increase of 15 cents per ton on rock, sand and gravel rates.<sup>6</sup> They were supported in this request by the southern California rock producers. The Association pointed out that the majority of rock, sand and gravel hauls are for short distances and contended that a flat increase would result in rate increases ranging from  $33\frac{1}{3}$  to  $37\frac{1}{2}$  per cent. It considered any increases in excess of 20 per cent to be inequitable. Applicants' rate witness testified that the present rates are truck compelled to an unduly low basis and that the rails believed rates in excess of the general 20 per cent level requested on other commodities necessary to more nearly reflect the cost of the service.

Monolith Portland Cement Company and Southwestern Portland Cement Company located at Monolith and Victorville, respectively, object to the proposal to increase cement rates on a percentage basis. They contend that a horizontal adjustment would disturb relationships between themselves, the so-called "outer mills," and the so-called "inner mills" located at Colton and Crestmore, in effect prior to the 6 per cent increase on cement rates, which approximated 1 cent per barrel. They conceded, however, that the maintenance of this differential is not a prerequisite to the satisfactory marketing of their cement under existing conditions. Both the inner mills and the northern California mills urged that a percentage increase in existing cement rates would best preserve existing relationships between the various mills and consuming markets.

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<sup>6</sup> A description of the articles included in the general term "rock, sand and gravel" was not given. From the testimony we understand that the commodities involved are those named in Item No. 260 series of Pacific Freight Tariff Bureau Tariff No. 166-G, C.R.C. No. 105.

The traffic manager for Rosenberg Brothers urged that the 15 per cent increase proposed for the agricultural product groups, in carloads, should likewise be authorized for the transportation of unmanufactured and unprocessed dried fruits rather than the sought 20 per cent increase. He was supported by the California Farm Bureau Federation and California Packing Corporation. In support of this request it was contended that dried fruit is in fact an agricultural product and should be so treated. He pointed out that California grows the bulk of the nation's dried fruit, and stated that most of it moves in intrastate commerce. The rail lines represented that the present dried fruit rates are depressed and that the 20 per cent increase is not excessive under these circumstances. They also feared that the determination of the correct tariff rates would be difficult if lower rates are maintained on unprocessed and unmanufactured dried fruits than on other dried fruit.

It is clear from the record that applicants are in need of additional revenue and that with the exceptions hereinafter discussed the increases sought are necessary to prevent acute financial distress and preserve an adequate transportation system. They should be authorized.

In this proceeding, as well as before the Interstate Commerce Commission, applicants have made no attempt to justify the lawfulness of individual rates. Increases in excess of 15 per cent on unmanufactured and unprocessed dried fruits and of 20

per cent on rock, common sand and gravel have not been justified. Should the rail lines believe that further increases are necessary on these commodities they should make that matter the subject of a separate proceeding.

With regard to the request of the so-called outer cement mills for a flat rather than percentage increase, there has been no showing that a percentage increase would detrimentally affect the marketing of their cement at the present time. There is no basis on this record for finding that the rail proposal should be deviated from with respect to cement. Should any cement mill consider itself to be detrimentally affected by rates resulting from this order, the matter should be brought to the Commission's attention in a formal proceeding dealing with such rates.

In this proceeding consideration has been given to applicants' over-all revenue requirements. Of necessity no study has been made of each or any of the individual rates or charges for the purpose of determining the reasonableness or lawfulness thereof. In authorizing the increases herein involved the Commission does not make a finding of fact of the reasonableness or lawfulness of any particular rate or charge, as so increased.

Upon careful consideration of all of the facts and circumstances of record in this proceeding, I am of the opinion and find that the increases involved in this application are justified.

O R D E R

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

IT IS HEREBY ORDERED that First Supplemental Application No. 27446 in this proceeding be and it is granted, except that (1) on rock, sand and gravel products identified in footnote 6 of this opinion, the increase shall be 20 per cent; (2) on unmanufactured and unprocessed dried fruit (dried fruit in the natural state and which has not been cleaned, washed, stemmed or otherwise prepared or partially prepared for human consumption) the increase shall be 15 per cent, carloads; and (3) where a through rate is made by combining separately stated rates each of such rates shall be increased as authorized herein before combining.

IT IS HEREBY FURTHER ORDERED that the increases herein authorized are to be added to the basic freight rates and charges which are defined to be those now in effect, whether established by order of the Commission or voluntary act of the petitioning carriers (including any rates held under suspension and investigation orders), excluding, however, from such freight rates and charges as now in effect such portion thereof as represents the increase authorized by Decision No. 39154 in Application No. 24670 and the additional increase authorized by Decision No. 39004 in Case No. 4808, effective June 10, 1946. Basic freight rates and charges include rates prescribed by outstanding orders of the Commission, if any, when and as the rates therein prescribed become effective, and also rates published by the carriers and on file with the Commission prior to the effective date of rates and charges authorized



by the Commission in this proceeding.

IT IS HEREBY FURTHER ORDERED that the increases in rates and charges herein authorized may be established on not less than one (1) day's notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that applicants be and they are hereby authorized to depart from the provisions of Section 24(a) of the Public Utilities Act to the extent necessary to effect the increases herein authorized.

IT IS HEREBY FURTHER ORDERED that applicants be and they are hereby authorized to publish increased rates and charges in the form authorized by the Interstate Commerce Commission. To the extent departure from the terms and rules of Tariff Circular No. 2 of this Commission is required to accomplish such publication, authority for such departure be and it is hereby granted.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the further express condition that applicants 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 authority herein granted shall be void unless the rates and charges authorized in this order are published, filed and made effective within sixty (60) days from the effective date hereof.

The effective date of this order shall be the date hereof.

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

Dated at San Francisco, California, this 23<sup>rd</sup> day of December, 1946.

Harold P. Kula  
Justice F. Garner  
Francis Dease  
Earl Howell  
A. Z. [unclear]  
Commissioners

APPENDIX "A"

List of Appearances

C. W. Burkett, Jr., J. E. Lyons, J. M. Souby, Jr. and  
J. E. Hennessy, for applicants,  
J. J. Deuel and Edson Abel, for California Farm Bureau  
Federation,  
William Guthrie and A. L. McCall, for California  
Portland Cement Company,  
O'Melveney & Myers by L. M. Wright, for Riverside  
Cement Co.  
C. R. Boyer for Southwestern Portland Cement Co.,  
Joseph T. Enright and Waldo A. Gillette, for Monolith  
Portland Cement Co.,  
Roy B. Thompson and Marvin Handler, for California  
Truck Owners Assn. of California,  
E. W. Hollingsworth, for Rock, Sand and Gravel Producers  
Assn. of Northern California,  
W. F. McCann, for Paraffine Company, Inc.,  
S. A. Moore, for Permanente Cement Company,  
Walter A. Rohde, for San Francisco Chamber of Commerce,  
H. J. Bischoff, for Southern California Freight Lines  
and Southern California Freight Forwarders,  
James E. Harris and W. G. Stone, for Sacramento Chamber  
of Commerce,  
Robert W. Kenny, Attorney General,  
Harold B. Haas, Deputy Attorney General,  
Dan C. McKinney, California Cattlemen's Assn., California  
Wool Growers Assn. and Western States Meat Packers  
Assn.,  
M. S. Housner, for C. E. Donaldson, Traffic Manager,  
Shell Oil Co. Inc.,  
L. H. Wolters, Golden State Company, Ltd.,  
W. G. Higgins, for Santa Cruz Portland Cement Co.,  
G. E. Lowe, for Kaiser Co. Inc.,  
A. Larsson, for California Redwood Association,  
N. E. Keller, for Pacific Portland Cement Co.,  
Donn W. Wilson, for Fibreboard Products, Inc.,  
K. P. Thorpe, for United Rexall Drug Co. and Drug  
Shippers Assn. Inc. of California,  
E. K. Slusser, for Poultry Producers of Central  
California,  
R. F. Ahern, for Dried Fruit Association of California,  
Robert K. Hunter, for State Board of Harbor Commissioners  
operating State Belt Railroad,  
L. E. Binsacca, for M.J.B. Co. and Western Can Co.,  
P. Steele Labagh and Leonard J. Keith, for California  
Packing Corporation,  
M. J. Kays, for G & N Motor Express.

END OF APPENDIX "A"