

ORIGINAL

Decision No. 40892

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of certain railroads, connecting )  
highway carriers, and connecting )  
water lines for authority to in- ) Application No. 28744  
crease freight rates and charges )  
(1947).

Appearances

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

O P I N I O N

Applicants are common carriers by railroad and connecting  
common carriers by highway and vessel. They seek authority to in-  
crease their all-rail, rail-highway and rail-water freight rates  
and charges.

The applicants are among those who petitioned the Inter-  
state Commerce Commission in Ex Parte No. 166, Increased Freight  
Rates, 1947, for permanent increases in interstate freight rates and  
charges of generally 38 per cent in eastern territory and interterri-  
torially, and 28 per cent within and between western and southern  
territories. At the opening hearing, petitioners moved for a 10 per  
cent interim increase, with minor exceptions, to offset in part  
marked increases in wages and in the cost of materials and supplies.  
The Commission by order of October 6, 1947, granted the interim in-  
crease. In granting the increase, the Commission said that increas-  
ing costs of operation now pose, and unchecked will continue to pose,  
a serious threat to maintenance of adequate service; that the rail-  
roads as a whole, and many of the most important railroads of the

<sup>1</sup> Flat increases per ton were provided in line-haul rates on iron  
ore, coal, coke and lignite. No increase was authorized on charges  
for protective service against heat or cold.

country in particular, are definitely facing such a threat; and that the immediate revenue needs could be met measurably by means of the proposed interim increase. The applicants here ask for the same relief as that granted by the Interstate Commerce Commission.<sup>2</sup>

Public hearings were had at San Francisco on October 20 and 21, 1947.

The record made before the Interstate Commerce Commission consisting of more than 2,000 pages of transcript, 33 exhibits, and 49 verified statements of shippers and other interested parties, was introduced as 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 state regulatory bodies under the provisions of Section 13(3) of the Interstate Commerce Act.<sup>3</sup>

Officers of each of the four major railroads and of a number of short-line railroads testified at the hearings herein.<sup>4</sup>

The evidence of record in this proceeding shows that applicants' operating costs have advanced substantially due to increases in wages and in prices of materials and supplies. Wages of non-operating railroad employees were increased 15½ cents per hour effective September 1, 1947. The increase, including additional payroll taxes, amounts to about \$75,000,000 annually for the four major California railroads.<sup>5</sup> With few exceptions, sharp increases have

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<sup>2</sup> After granting the interim increase, the Interstate Commerce Commission set further hearings on the proposed permanent increases. The hearings have not been concluded. Under the circumstances, hearings here have been limited to the interim increase sought.

<sup>3</sup> Commissioner Kenneth Potter of California represented the western states on the cooperating committee of state commissioners.

<sup>4</sup> The four major railroads are The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company, Union Pacific Company, and Western Pacific Railroad Company. With their subsidiaries, they operate about 96 per cent of the total railroad mileage in California.

<sup>5</sup> The estimate was based on current operations of the four major railroads. The wage increase in question also applies to the smaller roads. The amount borne by them was not included in the above estimate.

occurred in the cost of materials and supplies. Such costs were shown to be about 52 per cent greater in June, 1947 than in December, 1940. An additional increase of about 6.75 per cent occurred in July and August of this year. Applicants foresee no appreciable relief from this trend in the near future.

To show the effect of steadily increasing costs upon income, applicants compared the operating results of the four major California railroads for 1942 and 1946.<sup>6</sup> The data disclose that net railway operating income and net income for 1946 decreased 54 and 59 per cent, respectively, below the 1942 results. The reductions in income occurred despite the fact that an increase of 6 per cent in gross revenue for 1946 was accompanied by the beneficial effect of a 62 per cent reduction in railway tax accruals, as compared with 1942. The tax reduction in question resulted from federal tax "carryback." It is a nonrecurring item.

The estimated rates of return experienced by eight California railroads, including the four major roads operating 96 per cent of the rail mileage in this State, are shown in the following tabulation:

<u>Carriers</u>	<u>1947</u>	<u>1948</u>
AT&SF Ry.	4.8	* .64
CWRR&N Co.	.41	D
McCloud River R.R.	.81	D
Pacific Electric	D	D
Sierra Railroad	2.44	.77
Southern Pacific	2.52	1.32
Union Pacific	1.96	.003
Western Pacific	2.50	1.82

D - Deficit.

\* - Rate of return shown is based on adjusted revenue without the 10 per cent interstate interim increase.

<sup>6</sup>

The volume of traffic in the two years was said to be approximately the same.

The figures for Southern Pacific are for its Pacific Lines; the others are system figures. The 1947 figure shown for A.T. & S.F. Ry. includes the 10 per cent interim increase on interstate traffic effective October 13, 1947. The other figures do not include such increase.

Statistics were also submitted by the four major railroads showing results of their operations within California. On the whole, the showings indicate only a slightly better position from such operations than that from their system operations.

Applicants urged that, in addition to the effect of rising costs, cash outlays which cannot be recovered have further impaired their financial position. This was said to be due to the necessity of meeting increases in operating costs from cash reserves pending authorization of offsetting rate increases.<sup>7</sup> The record shows, for example, that a total of \$8,500,000 was used from cash reserves by the four major railroads to meet increased wages which accrued between September 1, 1947, when the increase became effective, and the date of hearing herein. Applicants have shown that expenditures under such circumstances cannot be recovered.

A traffic official of Southern Pacific Company testified that the interim increase sought is but part of the amount applicants believe is necessary to offset increased operating costs. He urged that applicants' financial position is such that they cannot absorb the increases experienced in operating costs without jeopardizing their ability to maintain adequate transportation service.

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<sup>7</sup> Applicants attributed this condition to the unavoidable period of time involved between the initial impact of increases in costs and application for and granting of offsetting rate increases.

Canners League of California objected to the proposed increase. A witness for the canners testified that the increase would seriously affect the industry's economy. He contended that applicants have not shown that an emergency exists. The witness conceded, however, that the bulk of the canners' production is marketed outside California.

Dried Fruit Association of California sought exemption of dried fruit, including raisins, or, at least, exemption of unmanufactured and unprocessed dried fruit. Witnesses for the Association testified that the industry is unable to bear further cost increases because of its depressed condition due to higher costs. It was conceded, however, that current prices, although substantially lower than in 1946, are above prewar levels. One of the witnesses maintained that applicants have not shown that they need an emergency increase.

Southwestern Portland Cement Company objected to the proposed increase on cement and Monolith Portland Cement Company objected to percentagewise increases. A witness for Southwestern testified that substantially heavier loading per car afforded favorable earnings and that the increase might result in diversion of substantial bulk tonnage from the rails. A witness for Monolith testified that past percentage increases had disrupted rate relationships between the various mills and consuming markets. He proposed a flat increase of 3/4 cent per 100 pounds to preserve existing relationships, but conceded that this would result in many instances in greater increases than sought by applicants. Representatives of Colton and Riverside cement mills said they had no objection to applicants' proposal. No evidence was introduced by the other mills.

California Redwood Association sought a 5 per cent maximum increase on logs, carloads. Otherwise, no objection was offered to

the proposed interim increase if it is found that applicants' need for additional revenue corresponds to that found in connection with interstate rates. A witness testified that logs move to mills for manufacture into lumber, that three cars of logs are usually required to produce one car of lumber, and that the hauls are usually short.

Of some 30 shipper representatives who entered appearances at the hearing, only those indicated above introduced any testimony.

While applicants' financial position resulting from California operations may not be quite as critical as that of the nation's railroads as a whole, the record shows that they need additional revenue and that the proposed interim increase is justified. Applicants propose to spread the burden of the increase over all transportation of property, including milk and cream transported in passenger service.

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 increase 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.

The record does not justify finding that applicants' proposal should be deviated from at this time to the extent sought by protestants. Should they consider that the rates and charges resulting from this order are improper for their traffic, the matter may be brought to the Commission's attention by formal proceedings dealing specifically with such rates and charges.

A petition in intervention was filed by The State of California operating as State Belt Railroad seeking increase of

10 per cent in the amount of applicants' absorption of connecting lines' switching charges. The record shows that applicants' tariffs have been amended accordingly on interstate traffic. It was stipulated that, in the event the increase herein sought is granted, the amended provisions will be made applicable on intrastate traffic.

Upon careful consideration of all of the facts and circumstances of record in this proceeding, we are of the opinion and hereby find that the interim increases in rates and charges involved in this application are justified.

#### INTERIM ORDER

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

IT IS HEREBY ORDERED that pending the further order of this Commission the interim increase involved in the above entitled application be and it is hereby granted; and that the increase herein authorized may be established within sixty (60) days from the effective date hereof on not less than one (1) day's notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that the increase herein authorized shall apply to basic freight rates and charges, including rates and charges for transportation of milk and cream in passenger service, which are defined herein 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. 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 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 increase herein authorized.

IT IS HEREBY FURTHER ORDERED that applicants be and they are hereby authorized to publish the 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 Commission shall have and it does hereby retain jurisdiction of this proceeding for the purpose of altering or amending the increase herein authorized



and for the purpose of establishing or approving such other increase as may appear proper in the light of other or further evidence received herein.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of November, 1947.

Harold P. Kule

Justin J. Casner

Frank Powell

A. J. [unclear]

Commissioners

## APPENDIX "A"

List of Appearances

R. E. Wedekind, E. C. Renwick, J. E. Hennessy, J. M. Souby, Jr.,  
and J. E. Lyons, for applicants,  
Roy B. Thompson and Berol & Handler, by Marvin Handler, for Truck  
Owners Association of California,  
I. F. Lyons, for Cannery League of California,  
P. Steele Labagh and Leonard J. Keith, for California Packing  
Corporation,  
Joseph T. Enright for Monolith Portland Cement Co.,  
Robert C. Neill for California Fruit Growers Exchange,  
Eugene A. Read for Oakland Chamber of Commerce,  
Walter A. Rohde for San Francisco Chamber of Commerce,  
Fred N. Howser, Attorney General, Harold B. Haas, Deputy Attorney  
General, and Robert K. Hunter, for the State of California  
Operating State Belt Railroad by and through Board of  
Harbor Commissioners,  
A. L. McCall for California Portland Cement Co.,  
C. R. Boyer for Southwestern Portland Cement Co.,  
L. M. Wright for Riverside Cement Co.,  
R. F. Walker for Spreckels Sugar Co. and Western Sugar Refinery,  
A. W. Brown for The Paraffine Companies, Inc.,  
L. H. Wolters for Golden State Co., Ltd.,  
M. Kays, for Redmond P. McCarthy, and  
Berry & McCarthy,  
Paul W. Foote for Almanor Railroad,  
J. G. Breslin and W. R. Donovan for C & H Sugar Corp.,  
E. K. Slusser for Poultry Producers of Central California,  
L. E. Binsacca for M. J. B. Co. and Western Can Co.,  
A. F. Schumacher for Owens-Illinois Glass Co.,  
Edward J. Dunne for W. H. Adams, Traffic Manager, Shell Oil  
Company,  
W. G. Higgins for Santa Cruz Portland Cement Co.,  
K. P. Thorpe for United Rexall Drug Co. and Drug Shippers Association  
Inc. of California,  
J. A. O'Connell and H. C. Dunlap for Dried Fruit Association of  
California,  
R. F. Ahern for Rosenberg Bros. & Co.,  
F. A. Moore for Permanente Cement Co.,  
Charles P. Travers for Standard Gypsum Co.,  
G. E. Lowe for Kaiser Co. Inc., Iron and Steel Division,  
M. J. London for Calaveras Cement Co.,  
Eugene R. Booker for Rock, Sand and Gravel Producers Association  
of Northern California,  
J. W. Brennan for City of San Diego Harbor Department,  
A. Larsson for Northern Redwood Co. and California Redwood  
Association.

End of Appendix "A"