

Decision No. 41221

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
certain railroads, connecting high-)	
way carriers, and connecting water)	Application No. 28744
lines for authority to increase)	(First Supplemental)
freight rates and charges (1947).)	

Additional Appearances

(A list of additional 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. By Decision No. 40892 of November 12, 1947, in this proceeding, they were authorized to make an interim increase of 10 per cent in their all-rail, rail-highway and rail-water freight rates and charges. They now seek an additional interim increase in such rates and charges.

The applicants here are among those who seek authority from the Interstate Commerce Commission in Ex Parte No. 166, Increased Freight Rates, 1947, permanently to increase interstate freight rates and charges by about 41 per cent in eastern territory and interterritorially, and 31 per cent within and between western and southern territories. The Interstate Commerce Commission granted a 10 per cent interim increase by order dated October 6, 1947, and an additional 10 per cent interim increase by order dated December 29, 1947. In granting the additional increase, the Commission found that it was necessary to offset in part further increases in wages and in the

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The Commission's order of December 29, 1947, authorizes an interim increase of 20 per cent which includes and displaces the 10 per cent interim increase previously authorized. The 20 per cent increase is scheduled to expire June 30, 1948, unless sooner terminated or modified by the Commission. Flat increases per ton were provided in line haul rates on certain ores and concentrates, and on coal, coke and lignite. No increase was authorized in demurrage charges nor in charges for protective service against heat or cold.

cost of materials and supplies which the carriers could not meet without jeopardizing their ability to maintain adequate transportation service. The applicants here seek the same additional interim relief as was granted by the Interstate Commerce Commission.²

A public hearing was had at San Francisco on January 20, 1948, before Examiner Freas.

The record made before the Interstate Commerce Commission was introduced as part of the record herein and was supplemented by oral and written evidence pertaining to the operating results of Class I railroads serving California. The interstate proceeding was conducted with the cooperation of state regulatory bodies under the provisions of Section 13(3) of the Interstate Commerce Act.³

Applicants contend that there is a pressing need for increased revenue if adequate service is to be maintained; they allege that this need is greater now than it was when the 10 per cent interim relief was granted. In support thereof, financial statements were submitted showing operating results on a system basis together with certain data bearing upon California and system intrastate operations.

The record shows that the rates of return (based on depreciated property investment) and the operating ratios of the six major railroads serving California are as follows:⁴

	<u>1929</u>	<u>1939</u>	<u>1940</u>	<u>1941</u>	<u>1942</u>	<u>1943</u>	<u>1944</u>	<u>1945</u>	<u>1946</u>
Rate of Return	5.16	2.24	2.61	3.85	6.94	5.29	4.59	3.65	3.36
Operating Ratio	67.65	73.31	72.36	69.56	58.52	60.50	63.15	76.85	81.44

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The hearings on the proposed permanent interstate increases have been concluded but the Interstate Commerce Commission has not yet issued its decision. Under the circumstances, the hearing here has been limited to the additional interim increase sought.

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Commissioner Kenneth Potter of California represented the western states on the cooperating committee of State Commissioners.

⁴ They are the Santa Fe, Southern Pacific, Union Pacific, Western Pacific, Great Northern and Northwestern Pacific. They operate about 96 per cent of the total railroad mileage in California.

For the first eleven months of 1947, the estimated operating ratio for these same carriers was 74.85 and the rate of return was 3.55. The rate of return was computed upon depreciated property investment as of January 1, 1947. According to the record, the present investment was increased from time to time during 1947 and the total at the end of the year was greater than that on which the rate of return was computed. For these reasons, it was contended that the rate of return shown was somewhat overstated.

Although the rate of return for the eleven months of 1947 shows an improvement over that for the year 1946, net railway operating income showed an unfavorable trend toward the end of 1947. Analysis of operating statistics of record discloses that, by reason of rate increases made effective during the first six months of 1947 and in October 1947, net railway operating income for the months of August through October 1947 exceeded that of the corresponding months of 1946. The trend during those months, however, was steadily downward to a point where for November 1947, the last month of record, net railway operating income was about \$783,000 less than that for the same month of 1946.

Applicants assert that substantial increases recently encountered in wages and in the cost of materials and supplies will sharply accelerate the aforesaid downward trend and that their financial position will be impaired unless additional revenue is provided.

Wages of nonoperating employees were increased 15½ cents per hour effective September 1, 1947. A like increase was granted conductors and trainmen effective November 1, 1947. In California, these increases amount to about \$25,775,000 per year including

payroll taxes. In addition, wages of engineers, firemen and switchmen have been under negotiations which were recently discontinued and a strike vote taken. Applicants, however, have offered the 15⁵-cent increase to this group of employecs. In the event it is accepted, about \$2,931,000 per year will be added to the aforesaid amount of the California wage increase.

Sharp increases have occurred in the cost of materials and supplies. The index thereof in June, 1947 was 174.8 computed on a December 1939 to June 1940 base. It was estimated that the volume of materials and supplies purchased in 1946 would have cost almost \$90,000,000 more at the prices prevailing in June 1947. According to the record, the cost of materials and supplies further increased about 10 per cent, or \$9,000,000, during the last five months of 1947. The record also shows that applicants have been notified of an increase of 40 cents per barrel in the cost of fuel oil effective March 21, 1948. Applicants foresee no appreciable relief from this trend in the near future.

The additional interim increase sought herein together with the current interim increase, it was estimated, would produce about \$11,550,000 additional California intrastate revenue per year for the six major railroads. It will be noted that the increase in revenue is less than one-half of the annual California wage increase amounting to \$25,775,000.

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With the above increases, the average straight time hourly rate for applicants' employecs has increased from 73.1 cents in 1939 to \$1.282 at the present time.

6 A number of shippers opposed the granting of the application. In the main, the protests were directed to the proposed increase on the grounds that it would have a serious adverse effect on certain industries, that no emergency need had been shown, and that the financial condition of western carriers was such that a further temporary increase was not necessary. In addition, it was requested that a decision herein be withheld until the Interstate Commerce Commission renders its decision in Ex Parte No. 166, supra, dealing with the proposed permanent increases in rates. Protests were also directed to the proposal to increase rates on a percentage basis on the grounds that percentagewise increases add to competitive disadvantages by disrupting rate relationships of long standing. Certain protests dealt with specified commodities, it being contended that those commodities could not stand a further increase, that it was no longer possible to pass the increase on without discouraging buying, and that the shippers of such commodities would be competitively disadvantaged. One protestant alleged that it was competitive with a shipper receiving Utah intrastate shipments of raw materials on which no increase corresponding with the one last made in California had yet been established.

The record shows that, despite the beneficial effect of rate increases made effective during 1947, net railway operating income steadily decreased toward the end of the year. In November

6 The protestants were California Hay, Grain & Feed Dealers Association, Los Angeles Grain Exchange, California Milling Corporation, Imperial Grain Growers, San Francisco Grain Exchange, Los Angeles Traffic Managers' Conference, Sears Roebuck & Co., California Manufacturers Association, Cannery League of California, Evaporated Milk Association, Dried Fruit Association of California, Rosenberg Bros. & Co., Douglas Oil Company, Fice-C Refining Company, Monolith Portland Cement Company, Santa Cruz Portland Cement Company, Calaveras Portland Cement Company, Riverside Portland Cement Company, Kaiser Company, Inc., Granite Rock Company and Peninsula Building Material Company.

1947, it was substantially less than that in November 1946. The record also shows that increases recently experienced in wages and in the cost of materials and supplies will have a substantial further adverse effect upon applicants' earning position. It is clear from consideration of applicants' position in the light of these circumstances that they need additional revenue and that the proposed increase is necessary. Applicants sought and were granted an increase in passenger fares.⁷ They propose to spread the increase here under consideration over all transportation of property, including milk and cream transported in passenger train service.

This is a revenue proceeding in which consideration has been given to applicants' over-all revenue requirements. Of necessity, no study has been made of any of the individual rates or charges for the purpose of determining the reasonableness or lawfulness thereof. Under the circumstances, the Commission in authorizing the increase involved herein does not make a finding of fact as to the reasonableness or lawfulness of any particular rate or charge. On the other hand, it is for like reasons impracticable on this record to resolve nice questions of preference and prejudice.

Applicants state that if they are permitted to make effective the increased freight rates and charges proposed, they will proceed with due diligence to make such reasonable readjustments in the resulting rates and charges as commercial and traffic conditions may require. Strict and expeditious compliance with this commitment is expected. Should any interested party feel that the application of the increase results in undue disadvantage which applicants will not voluntarily remedy, the matter should be brought to the Commission's attention by the filing of specific complaints.

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Decision No. 41216 of February 10, 1948 in Application No. 28985.

Should there be any instances in which the amount of the increases herein authorized exceeds the maximum proposed by applicants they will be expected to undertake to make reparation payments of any excess charges collected.

No sound reason has been advanced in support of protestants' recommendation that a decision herein be withheld until the Interstate Commerce Commission renders its decision on the permanent increases.

Upon careful consideration of all the facts and circumstances of record in this proceeding, we are of the opinion and hereby find that the interim increase in rates and charges involved in this application is 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 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 in connection with basic freight rates and charges (including rates and charges for transportation of milk and cream in passenger service), except demurrage charges for the detention of freight cars. Basic freight rates and charges are defined as those now in effect (exclusive of such portion thereof as represents the interim increase authorized by Decision No. 40892 of November 12, 1947, in this proceeding), 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.



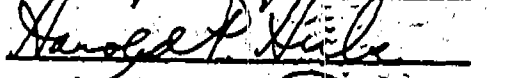

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicants will never urge before this Commission in any proceeding under Section 71 of the Public Utilities Act, or in any other proceeding, that the opinion and order herein constitute a finding 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 upon the effectiveness of the increased rates herein authorized the increase granted by Decision No. 40892 of November 12, 1947, in this proceeding shall be abrogated and superseded.

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 Los Angeles, California, this 17th day of February, 1948.





 Commissioners

APPENDIX "A"

List of Additional Appearances

Berne Levy, for Atchison, Topeka and Santa Fe Railway Company
Larry Fites, for Truck Owners Association of California
H.A. Kern, for California Van & Storage Association and United
Van & Storage Association
Richard L. Cheney, for Glass Container Manufacturers Institute
James E. Harris, for Sacramento Chamber of Commerce
J.C. Simpson, for Wholesale Fruit & Produce Dealers' Association
Thomas K. McCarthy and A.P. Heiner, for Kaiser Co., Inc.
Robert Hutcherson and J.M. Connors, for Tidewater Associated Oil
Company
F.F. Miller, for California Hay, Grain & Feed Dealers Association,
Los Angeles Grain Exchange, San Francisco Grain Exchange,
Imperial Grain Growers, California Milling Corporation,
and Los Angeles Traffic Managers Conference.
A.L. Russell, for Sears Roebuck & Co.
Lowe P. Siddons, for Holly Sugar Corporation
F.J. Rebhan, for American Crystal Sugar Co.
L.E. Osborne, for California Manufacturers Association
M.F. Wallace, for Douglas Oil Company of California and Five-C
Refining Company
A. Larsson, for Larsson Traffic Service
J.D. Reardon and E.L. Hiatt, for Union Oil Company
I.F. Lyons, for Evaporated Milk Association
Frank Loughran, for San Francisco Movers, Inc.
John E. Porter, for Granite Rock Company
J.W. Huff, for Spreckels Sugar Co.
Waldo A. Gillette, for Monolith Portland Cement Company
W.F. McCann, for The Paraffine Companies, Inc.
V.E. MacFarland, for Owens-Illinois Glass Company