

ORIGINAL

Decision No. 42083

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Railway Express Agency, Incorporated, a) Application No. 28008
corporation, for an order under Section) (Third Supplemental and
63 of the Public Utilities Act allowing) Petition to Amend
applicant increases in express rates and) Decision No. 41030
charges.)

Appearances

Hugh Fullerton and Edward Stern, for applicant.

THIRD SUPPLEMENTAL OPINION

Applicant is an express corporation operating over the lines of railroads and other common carriers. By Decisions Nos. 41030 of December 17, 1947, and 41463 of April 13, 1948, in this proceeding, it was authorized to increase certain of its intrastate rates and charges for a one-year period. Decision No. 41463 shows that no increase was sought at that time in certain miscellaneous intrastate rates and charges pending further consideration of increases on like interstate traffic. By supplemental application, authority is now sought to make various adjustments in the intrastate rates and charges.

A public hearing was had at San Francisco on September 1, 1948, before Commissioner Potter and Examiner Jacopi.

The intrastate increases are scheduled to expire December 22, 1948. These adjustments were generally similar to the increases on interstate traffic granted by the Interstate Commerce Commission by interim orders in Ex Parte No. 163, Increased Express Rates and Charges, 1946. Both the intrastate and interstate increases in question were granted on a temporary basis pending submission by applicant of a revised scale of rates and final determination of its revenue needs thereunder.

The increases sought herein involve only rates and charges set forth in the current Express Classification. It is proposed to increase by 10 per cent various minimum per shipment charges, charges for collecting and remitting the amounts involved in C.O.D. shipments and money rates. Charges for storage of undelivered shipments beyond expiration of free time would be increased by amounts ranging from 5 to 10 cents per shipment per day, depending upon the number of days in storage and the weight of the shipment. Other proposed changes in rates, charges, rules and regulations involve both minor increases and decreases. Adjustments comparable to those proposed here were made on interstate traffic effective May 1, 1948.

Applicant's superintendent of traffic pointed out that Decisions Nos. 41030 and 41463, supra, showed that the increases authorized therein would do little more than cover substantial advances in applicant's own operating expenses and that only a negligible amount of revenue would be available for compensating the railroads for their services. He testified that there has been no improvement in these conditions and that a substantial deficit exists between the payments made to the railroads and their cost of handling the express traffic. The proposed increases, he said, are necessary to enable applicant to effect some reduction of the deficit.

The witness asserted that the volume of traffic involved in the proposed increases was small; that the proposal covered only rates that had not heretofore been increased to the same extent as

² The record shows that applicant's operations over the railroads are generally conducted under a standard agreement which provides for segregation of express revenues and operating expenses according to territories in which they accrue. After deducting applicant's operating expenses, the remainder of the territorial revenue is distributed to the individual railroads in the proportion which express revenue over each line bears to total territorial revenue. The amounts so paid constitute the compensation of these railroads for handling the express traffic.

applicant's other rates; and that it was applicant's purpose to spread the burden of its revenue needs as uniformly as possible. He submitted traffic studies showing the movement under the individual rates sought to be increased together with revenues under the present and proposed rates. According to his estimates, the sought increases would produce about \$10,400 additional revenue per year. The witness testified that even with this additional revenue payments to the railroads would fall far short of covering the cost of performing the express service.

The record shows that the usual notices were sent to shippers, chambers of commerce and others believed to be interested. No one appeared in opposition to the proposed increases.

The evidence of record in this proceeding shows that the increases heretofore authorized would offset substantial advances in wages and other expenses and would make available \$9,838 per year for compensating the railroads for line-haul and other services performed on express traffic. It also shows that this amount was less than one per cent of the gross express revenue, whereas it was shown that western district railroads required an average payment of 63.082 per cent of the express revenues earned in the district to cover the full cost of performing express services. The additional revenue sought here together with that shown above would make about \$20,238 per year available for compensating the railroads. This amount is likewise less than one per cent of the gross express revenue. It is clear from the record that the increases proposed herein will enable applicant to make only nominal increases in the payments to the railroads for their services on express traffic. The proposed increases will be authorized.

As hereinabove indicated, Decision No. 41030, as amended, authorized increases in intrastate express rates and charges for a one-year period pending final determination of applicant's revenue needs. The increases are scheduled to expire December 22, 1948. Since the instant hearing, applicant filed on September 1, 1948, a petition seeking authority to continue the temporary intrastate increases in effect until further order of the Commission. The verified petition shows that the interstate proceeding in the matter has not been concluded; that under the circumstances the proceeding before this Commission cannot be completed prior to the expiration of the intrastate increases; and that the Interstate Commerce Commission by order dated August 6, 1948, in Ex Parte No. 163, supra, authorized maintenance of the interstate increases until its further order. Applicant states that the record in the intrastate proceeding shows that the increases in question do little more than cover the advances experienced in wages and other operating expenses; that no material change is anticipated in the near future in the conditions surrounding the granting of the temporary increases; and that continuance of the increases in effect until final determination of applicant's revenue needs is necessary to enable it to maintain adequate express service in the interim.

It appears that this is a matter in which a public hearing is not necessary and that continuance of the temporary increases until final disposition is made of this proceeding is necessary to enable applicant to continue to meet increased operating expenses without impairment of express service. The exact period of time necessary to conclude the proceeding is not now apparent. Under the circumstances, applicant should be authorized to maintain the temporary increases in question for a further period of one year, unless sooner changed, canceled or extended by the Commission.

Upon consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the increases in rates and charges involved herein are justified. They will be authorized to the extent hereinabove indicated.

In this proceeding, consideration has been given to applicant's 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.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Railway Express Agency, Incorporated, be and it is hereby authorized to increase its intra-state express rates and charges as proposed in the above entitled supplemental application; and that the increases and reductions proposed therein may be established on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that Decision No. 41030 of December 17, 1947, in this proceeding, be and it is hereby amended by substituting the words "two (2) years" for the words "one (1) year" in the second ordering paragraph thereof.

IT IS HEREBY FURTHER ORDERED that to the extent departure from the terms and rules of Tariff Circular No. 2 of this Commission is required to accomplish publication of the increases herein authorized, authority for such departure be and it is hereby granted.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire ninety (90) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the further express condition that applicant 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.

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

Dated at San Francisco, California, this 28th day of September, 1948.

R. Z. [Signature]
Justus F. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners