

ORIGINAL

Decision No. 42715

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of certain railroads and connecting )  
highway carriers and water lines for ) Application No. 29921  
authority to increase freight rates )  
and charges (1948). )

Appearances

F. R. Egan, George T. Hurst, J. E. Lyons, Clair W. MacLeod, W. L. Minor, A. T. Nelson, Edward C. Renwick, James M. Souby, Jr., and E. L. Van Dellen, for applicants.

Eugene R. Booker, John E. Doane, P. Steele Labagh, Harold A. Lincoln, Irving F. Lyons, Thomas K. McCarthy, F. F. Miller, S. A. Moore, John A. O'Connell, L. E. Osborne, Allen K. Pentilla, Frank J. Rebhan, C. J. Riedy, Lowe P. Siddon, Reginald F. Walker, and L. H. Wolters, for various shippers and their organizations, protestants.

Edson Abel, W. H. Adams, Laurence E. Binsacca, T. J. Champion, Frank M. Chandler, J.J. Deuel, Joseph T. Enright, Larry M. Fites, Joseph C. Fitzhenry, Waldo A. Gillette, Aaron H. Glickman, Harold M. Hays, Albert P. Heiner, W. G. Hinngs, Rudolph Illing, N. E. Keller, A. Larsson, G.E. Lowe, J. E. Myers, W. G. O'Barr, Eugene A. Read, Walter A. Rohde, James L. Roney, Frank A. Small, A. F. Schumacker, A. H. Valentine, James H. Watson, and Earl R. Wertz, for various shippers, carriers, and their organizations, interested parties.

O P I N I O N

Applicants are California rail lines and their connecting highway and water carriers. The general level of their intrastate freight rates and charges was last considered in Application No. 28744. Decisions Nos. 40892, 47 Cal. P.U.C. 529 (1947) and 41221, 47 Cal. P.U.C. 742 (1948), as amended, authorized, with certain exceptions, increases aggregating 20 per cent. Like increases on interstate traffic within western territory had been granted by the

Interstate Commerce Commission in Ex Parte No. 166, Increased Freight Rates, 1947. Applicants now seek authority further to increase their rates and charges by 4 per cent, subject to maximum increases of 6 cents per 100 pounds for fresh fruits, vegetables and melons, and 4 cents per 100 pounds for sugar and forest products.<sup>1</sup> No further adjustment is sought in rates and charges for perishable protective services. The increases here proposed are the same as those authorized by the Interstate Commerce Commission on interstate traffic within western territory (other than zone 1 of western trunk-line territory) by order dated December 29, 1948, in Ex Parte No. 168, Increased Freight Rates, 1948. The interstate adjustments were made effective January 11, 1949.

Public hearings on the proposed further increases on intrastate traffic were subsequently had at San Francisco before Commissioner Craemer and Examiner Mulgrew.

The rail lines are seeking a 13 per cent advance in the level of their interstate and intrastate rates on a nation-wide basis. The 4 per cent increase in western territory granted by the Interstate Commerce Commission, as well as the greater increases (5 and 6 per cent) in other territories and interterritorially, is an interim adjustment pending full hearing on the 13 per cent proposal. Representatives of state regulatory agencies, including Commissioner Potter of California, sat with the Interstate Commerce Commission throughout the hearing and oral argument. The proposed 4 per cent interim adjustment of intrastate rates is based on the extensive record developed by that Commission and incorporated herein, and on additional evidence relative to applicants' revenue requirements.

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San Francisco and Napa Valley Railroad, operating between Napa Junction and Mare Island, seeks no increase in its local rates.

Since the 20 per cent upward adjustment of applicants' rates pursuant to Ex Parte No. 166 and Application No. 28744, they have been required to raise wages of operating employees 10 cents per hour. Final settlement of the wage and hour demands of non-operating employees awaited a ruling from the President's emergency board at the time of the hearings on the instant application. Three of the four major California rail lines estimated their nonoperating wage expenses for 1949 on the basis of an increase of 10 cents per hour, but without provision for any reduction in the work week; the fourth used 7 cents per hour and made provision for a reduction of from 48 to 40 hours in the work week. Their estimates of additional wage expense for 1949 and of the revenue which would be produced during that year by a 4 per cent increase in their interstate and intrastate rates are shown below:

	<u>Santa Fe</u>	<u>Southern Pacific</u>	<u>Union Pacific</u>	<u>Western Pacific</u>
Wages	\$20,240,000	\$19,613,174	\$12,480,270	\$1,386,115
Revenues	16,180,000	14,589,000	9,519,000	1,622,000

Under the emergency board's subsequent ruling, nonoperating employees' wages were increased by 7 cents per hour, retroactive to October 1, 1948, and, effective September 1, 1949, the work week of these employees will be reduced from 48 to 40 hours. Computations made on the basis of Southern Pacific's estimates show that increased wages of 10 cents per hour for operating and 7 cents per hour for nonoperating employees will amount to approximately \$15,000,000 during 1949, a sum greater than the \$14,589,000 in additional revenue anticipated by that carrier. The effect the 40-hour week will have on its expenses cannot be determined from the record. The figures submitted by the other lines afford no

basis for adjusting their estimates of increased wage costs.

Applicants claimed that over-all price levels for materials and supplies, including fuel, have also increased since the rail rates were last adjusted, notwithstanding recent reductions in fuel oil and certain other items. Estimated 1949 operating results submitted by the four major lines and giving effect to the wage adjustments, the increased prices, and 4 per cent higher rates, together with operating results for 1948, are set forth in the following tabulation:

		<u>Revenues</u>	<u>Operating Expenses (including taxes)</u>	<u>Net Operating Income</u>
Santa Fe	1949	\$480,526,000	\$436,932,000	\$43,594,000
	1948	526,734,000	458,018,000	68,716,000
Southern Pacific	1949	462,939,000	437,231,000	25,708,000
	1948	458,081,279	422,524,887	35,556,392
Union Pacific	1949	439,306,000	402,586,000	36,720,000
	1948	437,583,000	395,607,000	41,976,000
Western Pacific	1949	48,595,000	43,343,000	5,252,000
	1948	44,038,000	38,700,000	5,338,000

According to the carriers, their rates of return for 1949 with 4 per cent higher interstate and intrastate rates would be lower than those for 1948. The indicated reductions are from 6.32 to 4.01 per cent for the Santa Fe, from 3.22 to 2.33 per cent for the Southern Pacific, from 4.40 to 3.85 per cent for the Union Pacific and from 4.48 to 4.41 per cent for the Western Pacific. The estimated rates of return for 1949 cannot be adjusted to reflect the nonoperating employees' wage and hour settlement from the information of record.

Applicants' witnesses testified that their revenue estimates were overstated. They explained that these figures did not make allowance for the interstate increase not becoming effective until January 11, for the subsequent effective dates of intrastate increases, and for the limiting effect of the maximum increases on various commodities. They also claimed that their estimates failed to give full effect to the traffic losses attributable to the severe winter weather, including the attending destruction of perishable commodities, or to a prospective downtrend in general business activity.

In regard to operating results from California intrastate traffic, applicants represent that such results would be generally comparable to those hereinbefore set forth for their system-wide operations. They point out that interstate and intrastate operations are commingled. It is not practicable, they claim, to assign or even approximate expenses for intrastate business. Such expenses, they insist, would be no lower than interstate expenses.

Showings similar to those made by the four major lines were submitted by various other applicants. They indicate that on the whole the operating results of these carriers have been and will be less favorable than those of the major lines.

Applicants claim that they have effected operating economies and improved efficiency. In this regard, their witnesses submitted studies showing that they have bettered their utilization of motive power and other equipment. They referred, as illustrative of action which had been taken, to the installation of centralized traffic control systems, to the substitution of diesel for steam power, to the use of mechanical devices to reduce maintenance and operating costs, and to the abandonment of unprofitable services.

They asserted, however, that the economics and improved efficiency had been more than offset by higher wages.

A traffic witness testified that the carriers' considered judgment was that the requested 4 per cent interim increase would not materially affect the amount of rail traffic handled in competition with other means of transportation. He pointed out that there were numerous instances where intrastate and interstate movements were competitive and that failure to make like rate adjustments would disturb long standing competitive relationships. He also pointed out that the rail lines had established uniformity in intrastate and interstate rates between California points, that it is often difficult readily to determine the character of the traffic, and that maintenance of the same rates for intrastate and interstate traffic avoids difficulties and uncertainties in determining applicable rates. He emphasized that, to the extent that intrastate rates are not adjusted to the 4 per cent interim basis, the carriers' revenues will fall short of the amount the Interstate Commerce Commission found necessary in Ex Parte 168, supra.

Various shipper interests opposed the granting of the sought increases. In general, their position was that further freight rate increases cannot be passed on to their customers and would divert traffic to motor truck operations (both for-hire and proprietary), and that intrastate increases should be held in abeyance until the 13 per cent increase proposal is disposed of by the Interstate Commerce Commission. Requests were made for exemption of specified commodities.

A representative of the Cannery League testified that the sought rate advances would further handicap its members in reaching competitive markets, add impetus to the decentralization of the

canning industry, and hamper processing and distribution of the State's agricultural products.

Witnesses for the beet sugar industry said that a rail rate advance would reduce the acreage in sugar beets and that in other producing states intrastate rates had not been increased.

Cement shippers testified that prior to 1940 virtually all cement was shipped by rail; that the car shortages of the past few years had forced diversion of considerable cement traffic to trucks; and that, even with the currently improved car supply, rail tonnage had continued to decline because of the lower cost of truck transportation. Some of the cement shippers, while opposing any increase, urged that should an increase be found necessary it be established on a flat basis in order to preserve competitive rate relationships. Rock, sand and gravel producers and grain and hay shippers opposed the sought increase for reasons similar to those of the cement shippers.

The representative of a paint and insecticides firm stated that his company had undertaken proprietary operations for local traffic. Further rail rate increases, he said, would encourage extension of this operation to other hauling.

The traffic manager of a fibreboard products company and its subsidiaries testified that his company had gradually shifted traffic to truck transportation, and that a further rail rate increase would accelerate decentralization of various production units with the attending reduction in transportation requirements.

The dairy industry contends that preferential treatment has been accorded other commodities and that the rates for its products are unjust, unreasonable and prejudicial.

The foregoing objections are to a large extent similar to those offered in Application No. 28744, supra. Certain other shippers were permitted to incorporate like testimony in that application in the instant record by reference.

The record is persuasive that the additional revenue which would be produced by a 4 per cent increase in applicants' intrastate and interstate rates would not appreciably exceed the increase in wage costs. Indeed, it is doubtful that the rate increase would be enough to offset the higher wages. Applicants have shown, moreover, that other expenses have increased since the level of their rates was last considered by this Commission. There is no reasonable expectation that, in the face of current costs, operating results equivalent to or better than 1948 would result under 4 per cent higher rates. It is clear that applicants' earnings under the sought rate level would not be excessive.

The shippers' objections to the proposed increases are based largely on potential losses of rail traffic. This is a revenue proceeding. Consideration must necessarily be given to applicants' over-all requirements. The extent to which commercial and traffic conditions, including competition with other means of transportation and potential decentralization of industry, may require rail rate adjustments is not a matter susceptible of being disposed of on the record thus far made. In view of applicants' demonstrated need for greater revenue, authorization of the proposed increases should not be withheld for this reason. The conclusions herein are without prejudice to those which may subsequently be reached in this or such other proceedings as may arise.

Upon careful consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the



proposed interim increases in rates and charges are justified. In authorizing these increases the Commission does not make any finding of fact as to the reasonableness or lawfulness of any particular rate or charge.

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 increases involved in the above-entitled application be and they are hereby granted; and that the increases herein authorized may be established within sixty (60) days after the effective date hereof on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that the increases herein authorized shall apply in connection with basic freight rates and charges (including rates and charges for the transportation of milk and cream in passenger service), except rates and charges for perishable protective services. Basic freight rates and charges are defined as 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 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 increases herein authorized and for the purpose of establishing or approving such other ~~rates~~ <sup>rates</sup> as may appear proper in the light of other or further evidence received herein.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of April, 1949.

Robert J. Green  
Harold P. Kuls  
Samuel Lott  
(Commissioners)