

ORIGINAL

Decision No. 43176

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the Railroads and Express Companies to) Application No. 30462
reduce agency service at all stations)
in California.)

R. E. Wedekind, E. L. H. Bissinger, E. L. Van Dellen, Robert H. Walker, E. E. Bennett, for applicants.

A. S. Herrera, H. J. Heaney, and I. S. Wilson, for Order of Railroad Telegraphers; Robert V. Rachford for Brotherhood of Railway and Steamship Clerks; Max Damon and Richard J. McCarthy for Brotherhood of Railway Clerks; I. Karmel, for City of Burlingame; and Judge William D. Keller for Lancaster Chamber of Commerce; protestants.

J. J. Deuel and Edson Abel for California Farm Bureau Federation; Robert Hutcherson for Tidewater Associated Oil Company; T. R. Phillips for Western Growers Association; William H. Adams and James H. Watson for Shell Oil Company; L. H. Wolters for Golden State Company, Ltd.; C. P. Van Herzen; Neville R. Lewis, City Attorney, City of San Fernando; Charles A. Bland for Board of Harbor Commissioners, Long Beach, Long Beach Chamber of Commerce, and Harbor District Chamber of Commerce, Long Beach; Harry Helferich for American Fruit Growers, Inc.; and Robert C. Neill for California Growers Exchange, interested parties.

O P I N I O N

(1)

In this proceeding applicants request permissive authority to reduce agency service at all of their stations in California to conform to the recently established forty-hour week for non-operating employees, effective September 1, 1949.

Public hearings were held before Commission Cracmer and Examiner R. K. Hunter in San Francisco on July 25, 1949, and in

(1) Southern Pacific Company; Central California Traction Company; Harbor Belt Line Railroad; Holton Inter-Urban Railway Company; Northwestern Pacific Railroad Company; Pacific Electric Railway Company; Petaluma and Santa Rosa Railroad Company; Railway Express Agency, Inc.; San Diego & Arizona Eastern Railway Company; Sunset Railway Company; Visalia Electric Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; Alameda Belt Line; Los Angeles Junction Railway; Oakland Terminal Railway Company; Union Pacific Railroad Company; The Western Pacific Railroad Company; Sacramento Northern Railway Company and Tidewater Southern Railway Company.

Los Angeles on July 29, 1949, on which latter date the matter was submitted.

On April 10, 1948, employees, represented by the Order of Railroad Telegraphers and Brotherhood of Railway and Steamship Clerks, served notices on the majority of the nation's railroads for changes in rules, hours of work, and rates of pay. A long series of conferences and negotiations in accordance with the provisions of the Railway Labor Act was had without any agreement being reached. Likewise, the National Mediation Board's attempt to settle the matter was unsuccessful. An Emergency Board was created by the President of the United States. Thereafter, an agreement was reached on March 19, 1949, which provided, in brief, for the following changes:

"1. An increase of seven cents an hour in rates of pay effective October 1, 1948.

2. A twenty per cent increase in basic rates, as they existed prior to October 1, 1948, so that an employee would receive the same pay for 40 hours as he had received for 48 hours' work.

3. For a 40-hour week consisting of five days of eight hours each, with two consecutive days off in each seven, and that so far as practicable the days off should be Saturday and Sunday, the shorter work week to become effective September 1, 1949." (From Exhibit No. 1)

The record shows that all of the railroads throughout the United States will adopt a 40-hour week as of September 1, 1949, and have applied, or will apply, to state regulatory commissions, when necessary, to close their stations to conform with the forty hour week. Statements made at the hearing indicated that the necessary

authority already had been granted in several states. It is clear that the proposal of applicants herein is in keeping with a program national in scope and is calculated to partially offset the substantially increased costs which will result from the adoption of the 40-hour week.

Representatives of the Order of Railroad Telegraphers and the Brotherhood of Railway and Steamship Clerks protested the granting of this application, stating that a detailed survey should be made before any decision is rendered to ascertain how the proposed program would affect particular stations, and that all carriers should be required to follow all procedures specified in the Commission's General Order No. 36-B, by furnishing the information specified in Paragraph 3 thereof, and further that protestants be allowed sufficient time to study such data and to introduce evidence and testimony with respect to the application. While this request refers to all carriers, the proposed reduction in service at passenger stations on the Pacific Electric Railway Company was stressed particularly.

Statements were made to the effect that the national agreement previously referred to, dated March 19, 1949, and the negotiations leading up to that agreement did not involve the Pacific Electric Railway Company and that separate negotiations and a separate agreement dated March 30, 1949, covered this railroad. It is immaterial which agreement covers the individual applicants insofar as this proceeding is concerned. The fact that both agreements result in a five-day, 40-hour week is material.

It is clear, however, from evidence introduced by both applicants and brotherhood protestants that the latter desire a

five-day, 40-hour week for all those employed in stations and offices.

It is apparent from the evidence in this record and what follows in this opinion and order, that the protestants' requested survey of individual stations and the 30-day notice before reducing service is not necessary and the public interest does not require it in this proceeding. It should be remembered applicants' request is not for the complete closing of any agency station but only for a permissive order authorizing a reduction in service by closing on certain days to conform with the forty-hour week and then only when traffic conditions permit.

The applicants showed that they propose to reduce agency service, so far as practicable and consistent with their duty to the public, to a five-day, forty-hour week. However, six or seven days per week agency service will be continued at important passenger stations where justified. Service will also be continued at stations handling a heavy volume of seasonal products and perishable commodities. The railroads are aware that other means of transportation are available and that besides performing their duty to the public they must meet the competitive situation.

Witnesses for applicants advised that tariffs will be amended to make Saturday a free day in calculating car demurrage charges and that storage charges, including those on baggage, and the 96-hour credit provision, would be given similar treatment to bring them in harmony with the 40-hour week.

Testimony was introduced showing that industry is now operating predominantly on a basis of five days a week and that the demand and need for agency service on Saturdays is substantially

less than on the other week days.

It is apparent that the cost of continuing agency service in excess of 40 hours per week at all stations will not be commensurate with the public need therefor. The evidence showed that the patrons of agency stations would not be seriously inconvenienced by the proposed change.

Due to the complexity of the situation, because of the varying and changing traffic conditions, it is not feasible to determine in advance the exact extent of the service that will be required or necessary at each station. This will require careful study and observation in order that adequate service may be furnished. The applicants will be expected to promptly determine the traffic requirements of the patrons and supply service wherever and whenever public convenience and necessity so require.

After careful consideration of the record, we find that the relief sought by applicants is justified and therefore it will be granted.

O R D E R

A public hearing having been held, and based upon the evidence adduced and the conclusions and findings set forth in the opinion:

IT IS ORDERED that the railroad and express companies, applicants herein, are hereby authorized to operate their agency stations on the basis of 40 hours per week, subject to the following conditions:

- (1) Applicants, before reducing service, shall give not

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less than ~~five (5)~~ days' notice to the Commission and the public by posting notice at the station involved.

(2) Applicants shall provide agency service at any agency station whenever the movement of seasonal commodities, perishable, or other reasonable demands of the shipping and traveling public so require.

IT IS FURTHER ORDERED that the Commission reserves the right to institute a proceeding at any time, either on its own motion or otherwise, to reopen this matter for the purpose of ascertaining the adequacy of agency service at any station.

The effective date of this order shall be *August 17, 1949* ~~20 days~~ after ~~the date hereof.~~

Dated at Los Angeles, California, this 2nd day of August, 1949.

A. E. Johnson
Justice F. Cooper
Robert A. Hall
Penelope Pottel
COMMISSIONERS

CALIFORNIA PUBLIC UTILITIES COMMISSION

INTER-OFFICE CORRESPONDENCE

LOS ANGELES

August 2, 1949

I regret that I cannot join in the foregoing opinion and order as written.

I have no dissent with the principle that applicants' agency service should be reduced to a five-day, forty-hour week, so far as practicable and consistent with their duty to the public.

The opinion and order, in my view, should have set forth expressly the important passenger stations where continuance of six or seven days per week agency service is justified. The order, as written, permits the operation of all agency stations on the basis of forty hours per week subject only to the conditions of the filing of a ten days' notice and posting and of providing service where reasonable demands of the shipping and traveling public require.

The public interest would have best been served by determining in this order, at least, the stations now known where present service will be continued.



Harold P. Huls,
Commissioner

EPH:pm