

Decision No. 44718

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
Railway Express Agency, Incorporated,	)	
a corporation, for authority to revise	)	
and increase certain intrastate rates	)	Application No. 30784
and charges applicable to the trans-	)	
portation of commodities within the	)	
State of California.	)	

Appearances

Eugene M. Prince, Dudley A. Zinke and Turner H. McBain, for applicant.  
 Reginald L. Vaughan, Garrett McEnerney II,  
 Elster S. Haile, Harry L. Price, Reginald  
 H. Linforth, Sheldon G. Cooper and John  
 Hamlyn, for various newspapers and news-  
 paper publishers associations, protestants.  
 A. H. Valentine, Edward Stern, O. K. Waage,  
 Carleton G. Anderson, Kamini K. Gupta,  
 J. O'Neill, A. J. Bihn and A. W. Halling,  
 for various shippers and shipper organiza-  
 tions, protestants.  
 J. J. Deuel and Edson Abel, for California Farm  
 Bureau Federation, protestant.

O P I N I O N

Applicant is an express corporation operating over the lines of railroads and other common carriers. In this proceeding, it seeks authority to increase its intrastate commodity rates and charges by varying amounts.

Public hearings of the application were had at San Francisco before Commissioner Huls and Examiner Jacopi. Briefs have been filed. The matter is ready for decision.

Applicant proposes to apply a general increase of 21 per- cent to its intrastate commodity rates except that greater advances are sought on a few commodities. On milk, cream and related articles, various commodities in carload quantities and the charges

for pickup and delivery service on such shipments and empty milk cans not returned, the sought increases range from 4 percent to 75 percent. The foregoing adjustments correspond with those that were recently made by applicant on interstate traffic.<sup>1</sup> In addition, increases ranging from 34 percent to 400 percent would result from proposed revisions of the intrastate commodity rates on race, polo or show horses, bakery goods, newspapers, popcorn, potato chips, motion picture film, crabs, cotton samples and various types of returned empty containers. For many years, the intrastate rates on the latter group of commodities have been maintained on levels lower than those for interstate movements. It is now proposed to raise the bases for the intrastate rates to the higher interstate levels. These proposals are hereinafter more particularly discussed.

Evidence in support of the proposed rate adjustments was offered by officials from applicant's accounting, traffic and operating departments. The record shows that the commodity rates involved in this proceeding have not been changed since January 1, 1947, when they were increased by 20 cents per 100 pounds under authority of Decision No. 39754 of December 16, 1946 (47 Cal.P.U.C. 52).<sup>2</sup> Assertedly, the rates were no longer adequate by reason of substantial advances that had since been experienced in the cost of operation, particularly in wages of employees. The effect of the

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<sup>1</sup> The interstate adjustments were made by filing with the Interstate Commerce Commission tariffs naming the increased rates effective on statutory notice. Under this procedure, the new rates are not passed upon by that Commission but the rates are subject to suspension upon complaint of interested parties. The increased interstate rates on fruits and vegetables and fish and shell fish named in the interstate tariff were suspended by the Commission. Proceedings involving the propriety of these rates have not yet been concluded. In view of this, increases in the intrastate rates on these commodities are not sought at this time.

<sup>2</sup> The increase in question was not sought nor authorized on the commodity rates applicable to the transportation of newspapers, milk, cream and related products and returned empty containers.

increased operating expenses was said to be illustrated by the fact that applicant's average cost per shipment for handling its traffic had advanced from \$1.33 in the year 1947 to \$2.28 in the year 1949. It was pointed out that, while the commodity rates were not changed during that time, the greater operating costs had been given effect in applicant's intrastate class rates through upward adjustments aggregating about 35 percent. The proposed adjustment of the commodity rates was said to be designed to provide needed additional revenue and to spread the burden of the increased operating costs over all of the traffic.

Applicant's general auditor explained that applicant's express 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 own operating expenses, the remainder of the territorial revenue is distributed to the individual railroads in the proportion which the express revenue over each line bears to the territorial revenue. The amounts so paid constitute the compensation of these railroads for handling the express traffic. The auditor asserted, however, that applicant's revenues under the present intrastate rates are insufficient to cover its own operating expenses and that no revenue is available to compensate California railroads for the services they perform on intrastate express traffic.

Exhibits were submitted and explained by the auditor showing the results of operation under the present rates for the 12-month period ended October 31, 1949, and what the results would have been had the sought increases in the commodity rates been in effect during that time. He calculated that the proposed rates would produce additional revenue amounting to about \$285,000 per year. The auditor pointed out, however, that revenues under the proposed rates would still be insufficient to cover applicant's own

operating expenses and that no funds would be available to compensate the railroads for their services. The operating data shown in the exhibits are summarized in the tabulation that follows:

Estimated Intrastate Express Revenues  
and Operating Expenses Under Present and Proposed  
Rates for the 12 Months Ended October 31, 1949.

	<u>Present Rates</u>	<u>Proposed Rates</u>
Express Revenues	\$4,579,907	\$4,865,021
Express Operating Expenses, including taxes	<u>4,880,843</u>	<u>4,880,843</u>
Amount available for compensating railroads for their services	( <u>\$ 300,936</u> )	( <u>\$ 15,822</u> )

( ) - Indicates Loss

Applicant's general manager testified that serious efforts had been made to reduce operating expenses and to increase the traffic volume. He asserted that substantial operating economics had been realized through consolidation of departments and various offices, reassignment of forces, changes in working hours and installation of labor-saving devices at the larger terminals. He also indicated that the traffic department had been reorganized and that this had made it possible to undertake more intensive solicitation of express traffic.

The evidence of record shows that applicant is in need of additional revenue. However, before reaching a conclusion relative to the amount thereof that is justified on this record, it is necessary to dispose of a number of individual rate proposals. As hereinabove indicated, applicant seeks authority to increase a few commodity rates by amounts that substantially exceed the 21 percent general increase proposed in the other commodity rates. A number of shippers and shipper organizations objected to some of these adjustments as hereinafter indicated.

Race, Polo and Show Horses

For the transportation of race, polo and show horses, applicant maintains per-car rates that vary with the number of animals loaded in the car. It is proposed to advance these rates by 120 per-cent. The evidence shows that the sought rates are equal to \$1.05 per car-mile and that the rail cost of performing the transportation (exclusive of applicant's own expense) amounted to about 86 cents per car-mile. It was pointed out, however, that this cost figure was understated because it was based on railroad expenses for the year 1948 and did not reflect advances in wages and other items of expense that had since been experienced by the rail lines. In addition, the indicated cost does not include applicant's own expenses which were said to be substantial. The evidence shows that the transportation in question is unusually expensive to perform because of the value of the animals and the special handling involved. Trained employees must be assigned by applicant to the loading and unloading services. The usual loading hours are such that overtime payments are necessary to drivers of applicant's vehicles that transport substantial quantities of accompanying racing and other equipment between the stables and the express cars. The cars are equipped with special water tanks and the interiors of the cars are finished with paints that are not injurious to the animals. Free transportation between the points of origin and destination is provided for a maximum of six attendants per car. It was estimated that the proposed rates would not exceed the cost of the services provided by applicant and the rail lines. No one appeared in opposition to the granting of the sought adjustment.

The evidence is persuasive that the present rates are inadequate and that the proposed rates are necessary to cover the cost of performing the substantial services involved. The sought advances should be authorized.

#### Estimated Weight on Crabs

Applicant's tariffs provide for the computation of transportation charges on crabs on an estimated weight of 22 pounds per dozen. It is proposed to change this basis to 30 pounds per dozen. The change would result in an increase in the charges of about 36 percent. An exhibit was submitted showing the actual weights of crab shipments that moved between representative points during a 5-day period. The average actual weight per dozen as indicated in the exhibit amounted to 25.5 pounds, exclusive of the weight of the ice and containers. For the latter articles, 4.5 pounds would be added to the weight of the crabs. No objection to the proposal was made.

The proposed estimated weight appears to be no greater than necessary to give reasonable effect to the average of the actual weights involved in crab shipments. It should be adopted.

#### Milk, Cream and Related Articles

Applicant maintains commodity rates on milk, cream and related products based on weight that apply only for interline express movements. Shipments moving wholly between points on any one railroad are handled in baggage service under the railroad's own rates. It is proposed to increase the express interline rates by 24 percent. The sought advance was said to correspond with that heretofore made in the intrastate railroad rates for movement of the commodities in baggage service. It was asserted that both the express and rail shipments usually move in the same cars, that they are subject to comparable costs and that in view of this the express rate increases

have long been patterned on those made in the rail rates. It was indicated that the sought advance was no greater than necessary to have applicant's milk and cream traffic bear its share of applicant's increased operating expenses.

The granting of the increase was opposed by Sonoma Mission Creamery and Tomales Bay Creamery insofar as churning cream is concerned. On brief, counsel for protestants contended that the commodity in question was of low value, that the present rates were as great as the protestants could bear and that any increase in the rates would make it economically impossible for the producers to continue their shipments to the protestants. It was claimed that the two companies provided the only outlets for the small producers of churning cream in California. The counsel submitted a motion for dismissal of the application with respect to this commodity on the ground that applicant had not made a prima facie case in support of the proposed increase on the cream.

Applicant's proposals in this proceeding are designed to spread the burden of increased operating expenses over all of its commodity rate traffic. There is nothing in this record that suggests that applicant's costs in connection with the movement of milk and cream, including churning cream, have not advanced nor that the increased cost amounts to less on churning cream than that on the other milk and cream traffic involved herein. The record shows that the last advance amounting to 20 cents per 100 pounds authorized in the intrastate commodity rates covered by this application were not sought nor applied on milk, cream and related products, including churning cream. Even with the increase now sought, the traffic in question will have borne substantially lesser rate advances since the year 1946 than virtually all of the other

commodity rate traffic involved in this proceeding. The evidence is convincing that the proposed adjustment is necessary and reasonable. The motion for dismissal of the application made by counsel for protestants will be denied.

Popcorn, Potato Chips and Related Articles

On popped popcorn, popped popcorn confections and potato chips, applicant proposes to cancel the present commodity rates and to apply in lieu thereof the classification rating of first class. This change will result in rate advances amounting to 101 percent. Assertedly, the weights of these commodities are unusually low in relation to their bulk, the articles occupy a disproportionate amount of space in express cars and vehicles and the unit cost of handling is considerably more than that for average shipments. It was pointed out that the commodities in question weigh from 3 to 5 pounds per cubic foot whereas the average weight of all traffic handled in applicant's nation-wide operations amounts to 10 pounds per cubic foot. The sought classification basis was said to give appropriate effect to the unusually low density of the commodities in question.

The granting of the sought increase was opposed by United Candy Company and Coast Supply Company. Witnesses for these protestants testified that they used applicant's service for the movement of popped popcorn from San Francisco to theaters located at various points. They asserted that the value of the popcorn was low and that the substantial rate increase sought by applicant would have a serious adverse effect upon their businesses. It was indicated that if the proposed rate adjustment was authorized it would be necessary for them to arrange for other means of transportation.

In support of the proposal, applicant relies mainly on a showing that the weights per cubic foot of popped popcorn and potato chips amount to substantially less than the average of all of its



traffic and the claim that this involves greater unit costs than those experienced on other traffic. There is nothing in the record, however, indicating that these factors were not taken into consideration and given effect when the commodity rates on the articles in question were established, nor that the traffic volume or other conditions had since materially changed. No study of the estimated present cost of performing the service was submitted. Neither were comparisons offered of the rates, densities and other transportation characteristics of other so-called light and bulky articles handled by applicant with those of the commodities involved herein. On this record, an increase as great as that sought has not been justified. The evidence shows, however, that applicant's operating expenses have advanced substantially since the commodity rates were last adjusted. The traffic in question should bear its share of the advanced costs. Under the circumstances, the general increase of 21 percent sought on the other commodities is justified on the popcorn, popcorn confections and potato chips.

Cotton Samples and Motion Picture Film

Applicant's commodity rate tariffs provide for the application of exception ratings of second class and one-half of first class on cotton samples and returned motion picture film, respectively. It is proposed to cancel these exception ratings and to allow the regular classification rating of first class to apply. This would result in advances of 33 percent in the charges on cotton samples and 70 percent on the film. According to the testimony, most of the cotton sample traffic moves by parcel post and other means of transportation. Although the rating on the film was established to meet the competition of motor carriers who specialize in film transportation, applicant was said to handle a small amount of traffic. Assertedly, the revenues under the existing ratings are inadequate.

It appears that the cotton sample and film traffic is already bearing a proportionate share of the increased costs experienced by applicant. This traffic moves under class rates. Since the year 1946, the class rates have borne advances that are 35 percent greater than those applied to applicant's commodity rates during that time. The instant proposals would impose on the cotton samples and film further increases amounting to 33 percent and 70 percent in excess of the maximum advances that have been made in the class rates generally. Under these conditions, the evidence fails to establish that the present rates are inadequate.

Moreover, applicant's witnesses testified that additional traffic of all kinds was needed and that solicitation activities had been intensified. It is not apparent how a greater share of the cotton sample and film traffic could be obtained by establishing bases for the rates that differ from those maintained by applicant's competitors. The proposal should be denied.

Returned Empty Egg and Poultry Containers

Applicant seeks authority to cancel the present weight rates applicable between a few points on returned empty egg cases and poultry containers and to substitute in lieu thereof rates per container that vary according to weight brackets. The sought rates were said to be those applicable between all other points in California under the express classification. The change would result in increases ranging from 200 to 250 percent. It was asserted that the containers in question are light in weight for their bulk, that they occupy a disproportionate amount of space in cars and terminals, and that under these conditions the present commodity rates were inadequate. Assertedly, the proposed basis was designed to compensate for the adverse conditions indicated. It was also pointed out that the proposal would bring the rates involved into conformity with the general basis observed throughout the rest of the State.

In the absence of evidence to the contrary, it must be assumed that the adverse transportation characteristics of the containers in question were given effect when the commodity rates that would be discontinued were established in lieu of the classification basis. It was not shown that substantial changes had occurred in the conditions surrounding the transportation, particularly with respect to egg containers on which the greatest rate increases would apply. The record made does not support the substantial advances proposed by applicant. However, in view of the fact that applicant's operating expenses have materially advanced since these rates were last adjusted, the 21 percent increase proposed in commodity rates generally is justified here.

Bakery Goods

Applicant's tariffs name commodity rates on bread, cake and other bakery goods that are equal to from 30 percent to 39 percent of the current first class rates. It is proposed to raise these rates to the level of 50 percent of the first class rates.

It is alleged that the present rates are unreasonably low under current cost levels for the unusual amount of service rendered on the traffic. It was explained that virtually all of the movement under the rates in question was comprised of bread and cake shipped from San Francisco, Oakland, Los Angeles and a few other points. Special handling and expedited service was said to be necessary because of the perishable and fragile nature of the goods. A number of applicant's vehicles are exclusively assigned to the pickup service from the time the baking for the day commences until it is completed shortly before departure of the passenger trains on which the goods are scheduled to move. At bakeries from which the movement

is heavy, the vehicles are left upon request at the loading platforms where they are loaded during the afternoon by and at the convenience of the shippers. In these cases, the drivers remain at the plants for the purpose of receiving and billing the shipments. The vehicles are not used to perform any other pickup service while engaged in the movement of the bakery goods. The arrival at the terminals of a large amount of traffic only a short time before train departures was said to involve speedy sorting and loading to insure movement on the various trains.

Applicant alleges that it has always endeavored to maintain the bakery goods rates on the level of 50 percent of the first class rates to compensate for the expensive service accorded to this traffic. This relationship was said to have been disrupted in recent years. It was shown that, since January 1, 1947, the class rates had been increased by a total of 35 percent and that no corresponding adjustment had been made in the commodity rates on bakery goods. Assertedly, the instant proposal would restore the previously existing relationship between the bakery goods rates and the class rates and would result in the establishment of compensatory rates for the traffic in question.

On brief, counsel for Northern California Bakers' Association and a number of individual baking companies urged that the proposed adjustment be denied on the grounds that the intrastate bakery goods rates had never been based on a percentage of the class rates as claimed by applicant; that no cost figures had been presented showing that rate increases as great as those sought are justified by reason of the alleged costly nature of the service; that the proposal would result in arbitrary and discriminatory rates in that exorbitant rate advances were sought on some of the traffic; and that the establishment of the proposed rates would result in a substantial reduction in the volume of applicant's bakery goods traffic.

This record does not support a finding that an average increase as great as that sought is justified. The pickup service provided for bakery goods was said to be unusually expensive but no data were presented showing the estimated comparative cost of these operations. The record is in conflict with respect to applicant's contention that the bakery goods rates had always been based upon 50 percent of first class and that this relationship, which had been disrupted in recent years, should be restored. Histories of the rates or other proof were not submitted. Moreover, it is apparent from the record that applicant's proposal would not uniformly spread the burden of general increases in operating expenses over the bakery goods rate structure. Bakeries located in Los Angeles, for example, would bear on their shipments substantially greater rate advances than those proposed for movements from San Francisco and Oakland. No justification was offered for these differences. Neither was any evidence of probative value introduced in support of the proposed discontinuance of rates long maintained for shipments of the larger quantities. It appears, however, that the general advance in wages and other operating expenses experienced by applicant affect the costs involved in the bakery goods movements as well as those incurred on other commodities. Under the circumstances, the general increase of 21 percent sought in the other commodity rates should be authorized on bakery goods.

#### Newspapers

Applicant's present rates for the intrastate transportation of newspapers in California are (1) rates ranging from 15 cents to 25 cents per 100 copies applicable to specified newspapers moving from the publication points to all other points in the State, (2) a rate of 7.5 cents per 100 copies for specified newspapers moving

from San Francisco to Sausalito, from Sausalito to nearby points, and between San Francisco and East Bay points, this rate including only a limited amount of handling service by the carrier, and (3) a similarly restricted rate of 2.5 cents per 100 copies for movement of a specified newspaper between Oakland and San Francisco. In lieu of these rates, applicant proposes to establish a rate of \$1.20 per 100 pounds for all newspapers shipped in any quantity between points in California where the distance does not exceed 600 miles. Although higher rates would also be established for greater distances, it was indicated that there was no intrastate movement of newspapers for more than 600 miles. The proposed change would result in advances ranging from 150 percent to 400 percent.

In support of the proposed substitution of a weight for the "per 100 copies" basis, witnesses for applicant testified that the weight of newspapers fluctuates from day to day and that this weight varies considerably as between different publications. It was pointed out that the proposed establishment of weight rates had heretofore been considered by this Commission and that in its Decision No. 32903 of March 19, 1940 (42 C.R.C. 577) the Commission said "Under these circumstances, the computation of charges on a weight basis would appear to give far greater recognition to the cost of performing the service and to the value of the service to the shipper."<sup>3</sup> It was claimed by the witness that this observation applies with equal force under present conditions. Assertedly, the establishment of weight rates would remove discrimination claimed to exist between the large and small newspapers.

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The decision shows that the proposal involved substantial rate increases that were not justified by the record made. The proposal was denied but an increase of 10 percent was authorized in the "per 100 copies" rates to compensate for advances in operating expenses that were shown to have been experienced.

The present newspaper rates were said to be unreasonably low and noncompensatory. The evidence shows that the rates on newspapers have borne increases amounting to 47 percent since the year 1910, when intrastate express rates were first filed with this Commission. It was asserted that despite these adjustments the present rates return less revenue per 100 pounds than did the rates in effect forty years ago. This was attributed to the fact that the per copy weights had increased considerably over those on which the original rates were based. According to the evidence, the rates in effect at that time were equal to about 50 cents per 100 pounds whereas the present rates yield average revenue amounting to about 34 cents per 100 pounds based on the current weights of the newspapers. It was also pointed out that applicant's operating expenses had materially advanced during the period in question. The evidence shows that applicant's own cost of handling all intrastate traffic in the year 1949 amounted to \$1.76 per shipment. This was compared with the average revenue on newspaper traffic of 76 cents per shipment to show that the present rates are noncompensatory. It was admitted by applicant's witnesses that the pickup and delivery service was performed by the newspaper publishers but it was contended that the savings therefrom were offset by the added costs involved in preferred handling and expedited service said to be given newspaper traffic.

The handling of the newspaper traffic was exhaustively dealt with by witnesses for applicant and through cross-examination of the witnesses. According to the testimony, the publishers' trucks usually arrive at the receiving points shortly before the departure of trains. This was said to make it necessary to provide special handling and service in order to insure movement on the

various trains. It was indicated that because of the late arrival of the newspaper traffic, other express shipments had to be moved to the trains well in advance of departure to avoid last-minute interference with the handling of the newspapers. The witnesses claimed that, except that newspapers involved more expeditious handling and pickup and delivery service was not performed by applicant, the newspaper traffic required the same amount of handling as any other class of express traffic.

Applicant's witnesses asserted that the proposed rates would be reasonable for the service performed and that they would not exceed the cost of handling the traffic. They indicated that cost studies had not been presented because it was impractical to separate the cost of handling one commodity from the total cost of all of the articles transported in express service. On brief, it is argued that applicant submitted the most informative data that could be developed. It was pointed out that the record showed the average per-shipment revenue and cost for all California intrastate traffic as well as the average per-shipment charges for traffic moving under first and second class rates and commodity rates.

Various newspapers and newspaper publishers' associations opposed the sought adjustment. Counsel for these protestants submitted documentary evidence, and applicant's witnesses agreed, that the California intrastate express rates for newspapers had been maintained on a "per 100 copies" basis continuously since the year 1906 and prior thereto. It was developed that during that time weight rates applied on interstate traffic and on intrastate traffic in a number of other states. On brief, it was contended that applicant had not established that the conditions surrounding the newspaper traffic that caused the adoption of the existing form of rate had materially changed since that time. It is also urged that the record does not contain test weights of the various newspapers



during the period from 1906 to 1950 and that the conclusion that the weights had changed substantially was not justified. It is pointed out that one of applicant's witnesses testified that in the year 1906 one of the Los Angeles newspapers was "an enormous issue," being "practically a magazine" with "a very wide distribution". It is urged that applicant's showing does not justify changing the "per 100 copies" basis that has been in effect for more than forty years.

It is further contended by protestants on brief that increases as great as those sought by applicant have not been justified because no estimates of the cost of performing the newspaper service were submitted. In view of the lack of such studies, applicant's contention that the present rates are unreasonably low and noncompensatory was characterized as an unsupported argument. It is claimed by protestants that the cost of transporting newspapers is actually lower than that for most other express traffic for the reason that applicant is relieved of substantial terminal and other costs on newspapers. Reference was made to the fact that the record showed that the pickup and delivery services are performed by the publishers with their own equipment, that in many instances their employees assist in unloading the newspapers and placing them on applicant's vehicles or platforms, that shipments moving on certain trains are placed inside the express cars by the publishers' employees and that no claims had ever been filed for loss of or damage to newspapers. One of applicant's officials expressed the opinion that under these conditions the cost of handling newspapers would amount to less than that for other express traffic. Protestants contended that increases as great as those sought are not consistent with the foregoing favorable conditions. It was pointed out

that applicant's contention that the savings resulting from these factors were offset by the cost of other handling service was not supported by factual evidence. Protestants urged that should advances in the newspaper rates be deemed necessary from a revenue standpoint, the amount of the increase should not exceed the general adjustment herein sought in the other commodity rates.

The principal issue here is whether or not the substantial advances sought in the newspaper rates have been justified on this record. The proposed upward adjustments range from 150 percent to 400 percent with the majority of the increases ranging from 200 percent to 300 percent. Rate advances as great as these should be granted only upon an affirmative showing that they are justified. Such a showing has not been made here. Although the cost of performing the service is not the only factor to be considered, it appears to be particularly important here. The record shows that, aside from the alleged increase in the weights of the newspapers, the only change that has occurred in the transportation conditions on which the newspaper rates were established on a "per 100 copies" basis some forty years ago is that the cost of performing the service had materially advanced. A substantial portion of the testimony of witnesses for applicant dealt with elements of the service that were said to involve added costs but no calculations bearing thereon were submitted. On the other hand, the witnesses admitted that the cost of pickup and delivery and other services usually involved in the handling of express shipments were not incurred in connection with shipments of newspapers. On the whole, the record made indicates that the present rates are inadequate but, in the absence of cost studies, it affords no reasonable measure for determining whether the deficiency is as

great as that claimed by applicant as reflected in the proposed increases. Comparisons were submitted showing that the average per-shipment cost of handling all California intrastate traffic substantially exceeded the average revenue per shipment of newspapers. In a situation where, as stated by one of applicant's witnesses, the express shipments handled ranged "from a diamond ring to an elephant," the comparisons in question throw but little light on the relative cost of the service. Moreover, the record indicates that the character and amount of the service rendered on different commodities varies materially. The record is persuasive, however, that advances in the operating expenses affecting the handling of newspapers as well as other express traffic have been experienced by applicant. The newspaper traffic should bear its share of the advanced costs. On this basis, the 21 percent increase herein sought in commodity rates generally is justified on newspapers.

A witness for applicant claimed that it was not practical to develop the cost of handling particular traffic. The evidence dealing with the handling of newspapers indicates that the traffic is seldom directly commingled with other express shipments until it is loaded into the express cars. The evidence also shows that labor costs comprise about 80 percent of applicant's own operating expenses. Under these circumstances, it appears that time and performance and other studies that might be deemed appropriate by applicant's cost analysts would provide reliable data for making such cost apportionments as might be necessary and for developing reasonable estimates of the cost of performing the service provided by applicant. The rail costs are available to applicant. From these costs, it has heretofore determined, among other things, the percentage of the express revenue that is required to defray the rail cost of performing the express service. It appears that reasonable cost calculations could also be made in that connection.

Carload Rates and Charges

Applicant's tariff names carload commodity rates and refrigeration charges for the movement of beer and other malt liquors, fish, and dressed poultry between producing points and various markets and distributing centers. Increases of 4 percent and 31 percent are sought in the carload rates and refrigeration charges, respectively. The tariff also provides that on request pickup or delivery service will be provided at a charge of 20 cents per 100 pounds for each of the services. It is proposed to advance the charge to 35 cents per 100 pounds, or an increase of 75 percent.

A witness for applicant explained that there had been no movement under these rates for some years, that it was desired to maintain them in effect because traffic might be obtained in the future, and that under the circumstances applicant believed that upward adjustments should be made in view of the increases experienced in operating expenses. He further explained that it has been applicant's practice to advance its carload rates and charges by amounts no greater than those authorized in the rail rates. The proposed adjustments of the carload rates and refrigeration charges were said to be identical with those recently granted the rail lines on carload traffic. In regard to the sought advance in the pickup and delivery charge, the amount of the increase was said to correspond with that heretofore made by tariff filing, supra, in applicant's charge on interstate movements.

The proposed adjustments of the carload rates and refrigeration charges appear to be appropriate and should be authorized. The pickup or delivery charge, however, involves a terminal service performed in applicant's own equipment on which no estimated costs

were submitted. The evidence does not establish that an increase amounting to 75 percent is necessary. It appears, however, that the advance of 21 percent generally sought herein is justified and should be authorized.

#### Agricultural Products

California Farm Bureau Federation opposed the granting of any increase on agricultural products. On brief, it contended that applicant had not submitted detailed evidence relative to the handling of different kinds of agricultural and other commodities that would enable the Commission to determine what rate adjustments should be made. Assertedly, a general increase in rates should not be granted under these circumstances. It was maintained that years ago applicant was the most important carrier in the State of agricultural products, including milk and cream. Virtually all of this traffic was said to have been lost to other means of transportation due to curtailment of service in the rural areas coupled with substantial increases in rates. Assertedly, the rate advances now sought would result in further loss of traffic without corresponding reductions in costs.

On brief, applicant urged that its revenue needs would not be solved by lower rates. It was pointed out that if the greater traffic volume and lower rates for the year 1946 had prevailed in 1949, the payments to the railroads for their services would have amounted to less than one-half of those that it had been possible to make in the year 1949. The discontinuance of railway stations and express offices in rural areas was said to be unavoidable because of the decline in the volume of traffic and the resulting necessity of reducing expenses at such points.

As previously indicated, this record shows that applicant is in need of additional revenue. If the service is to be maintained, it appears that the commodity rate traffic should bear its share of applicant's revenue needs.

#### Conclusions

It is clear that applicant's intrastate express revenues under the present rates are insufficient to cover its own operating expenses and that no revenue is available to pay the rail lines for their services on express traffic. The additional revenue that would be produced by the proposed general increase of 21 percent and by the individual rate advances as hereinabove indicated is necessary to avoid impairment of the service and should be authorized. It appears that even with these rate adjustments the annual intrastate revenues would still fail to cover applicant's own operating expenses. The estimated annual results of operation based upon the traffic volume prevailing during the 12-month period ended October 31, 1949, under the rates hereinafter authorized would be as follows:

Express Revenue	\$4,762,126
Express Operating Expenses, including taxes	<u>4,880,843</u>
Amount available for compensating railroads for their services	( <u>\$ 118,717</u> )

( ) - Indicates Loss

By Decision No. 44719 issued today, in Application No. 31360, applicant was granted an increase in its first and second class rates that is expected to produce additional revenue amounting to about \$280,000 per year. A discussion of the effect that this additional revenue together with that herein authorized in the commodity rates will have upon the results of the intrastate operations is set forth in the decision in question.

Upon careful consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that increases in applicant's intrastate rates and charges to the extent indicated in the foregoing opinion and as provided by the order herein have been justified; and that in all other respects applicant's proposals have not been justified.

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 establish, within sixty (60) days after the effective date of this order and on not less than five (5) days' notice to the Commission and to the public, increased express rates and charges as proposed in the application filed in this proceeding, subject to the following exceptions:

1. Rates and charges on popped popcorn, popped popcorn confections and potato chips, returned empty egg, poultry and bakery goods containers, bakery goods, newspapers and parts, supplements or sections thereof, and pickup or delivery service on carload shipments, shall be increased by 21 percent in lieu of the advances proposed in the application. In computing these increases, fractions of less than one-half cent shall be dropped and fractions of one-half cent or more shall be increased to the next whole cent.

2. No change shall be made in the existing exception ratings on cotton samples and returned motion picture film.

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

IT IS HEREBY FURTHER ORDERED that, in all other respects, the above-entitled application be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that the motion referred to in the foregoing opinion for dismissal of the application with respect to churning cream be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the 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 shall be construed as consent to this condition.

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

Dated at San Francisco, California, this 29<sup>th</sup> day of August, 1950.

L. J. Indurana  
Justin F. Galloway  
Harold P. Hills  
Kenneth P. Potter  
Commissioners