

Decision No. 44944

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
The Atchison, Topeka and Santa Fe)
Railroad Company, Northwestern)
Pacific Railroad Company, Southern)
Pacific Company, Union Pacific)
Railroad Company and Western Pacific)
Railroad Company for authority to)
increase by 20 percent the charges)
for the handling of newspapers in)
baggage service.)

Application No. 30996

Appearances

W. A. Gregory, Jr., for applicants
Reginald L. Vaughan, Garrett McEnerney II,
Harry L. Frice, Reginald H. Linforth,
Sheldon G. Cooper and John Hamlyn,
for various newspapers and newspaper
publishers associations, protestants.

O P I N I O N

Applicants are common carriers by railroad engaged in the transportation of freight and passengers. In this proceeding, they seek authority to increase the rates on newspapers transported in baggage cars in passenger trains by 20 percent.¹ In addition, Southern Pacific Company proposes to cancel certain of its rates on newspapers.

Public hearings were had at Los Angeles and San Francisco before Commissioner Huls and Examiner Jacopi.

¹ The term "newspapers" as used herein includes newspaper sections and supplements as well as newspapers.

Applicants maintain weight rates for the movement of newspapers in baggage cars between points on their lines except for a number of points served by Southern Pacific Company where rates per 100 copies are applicable.² It is proposed to increase the weight rates by 20 percent. This adjustment corresponds with that made by applicants effective March 1, 1950, in rates for interstate movements of newspapers in baggage cars.³ In addition, Southern Pacific Company proposes to cancel its "per 100 copies" rates and thereafter to apply the adjusted weight rates. This change would result in advances in transportation charges as great as 208 percent.

The newspaper rates in question were last considered in Decision No. 39785 of December 23, 1946, in Application No. 27446, in which an increase of 15 percent was authorized.⁴ It is alleged

² Rates per 100 copies are maintained by Southern Pacific Company from San Francisco to Dorris and Hilt and intermediate points and from Los Angeles to Calexico and intermediate points. The weight rates apply at all other points where passenger service is provided by the company.

³ The interstate adjustment was 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 they are subject to suspension upon request of interested parties. The record in the instant proceeding shows that following denial by the Interstate Commerce Commission of a request for suspension of the interstate rates, the American Newspaper Publishers Association filed a formal complaint with that Commission (Docket No. 30592) alleging that the new rates were unjust and unreasonable. A decision in the matter has not yet been rendered.

⁴ Application No. 27446 was a revenue proceeding involving the California intrastate freight rate structures (including rates for movements of articles in baggage cars) of applicants and other railroads and their connecting highway carriers.

that since that time operating expenses, particularly wages, have increased substantially, that the present rates are not compensatory and that under the rates proposed the newspaper traffic would bear its share of the increased cost of operation.

Evidence in support of the application was offered by officials of applicants' passenger traffic departments and by an engineer from the bureau of transportation research of one of the applicants.

The handling accorded the newspaper traffic by the applicants was explained in some detail. Newspapers are forwarded in securely tied bundles seven days per week. Delivery to applicants is made by the publishers' trucks. Most of the shipments are delivered to the baggage rooms where the bundles are sorted and loaded on station vehicles by applicants' employees for movement to the baggage cars. In some instances, the shipments are transferred from the publishers' trucks directly to the station vehicles. A small amount of the traffic is delivered to the baggage cars by the publishers. The publishers' trucks usually arrive at the receiving points shortly before departure of the passenger trains. This makes it necessary for applicants to provide special handling to insure movement of the newspapers on the various trains.

According to the testimony of the engineer witness, substantial advances have occurred in the expenses involved in the movement of newspapers in baggage cars. He submitted exhibits indicating the upward cost trends experienced by Southern Pacific Company. The exhibits showed that during the period June, 1941,

to December, 1949, inclusive, the wages of all employees as a group increased by 115.1 percent and the cost of fuel and of materials other than fuel advanced by 45.1 percent and 71.8 percent, respectively. The exhibits also showed that for classes of employees closely associated with the handling of traffic moving in baggage cars, including newspapers, the advances experienced in wages during the period in question ranged from 95.7 percent for station agents to 174.1 percent for baggage and parcel room employees and station attendants. The witness further testified that the cost of baggage cars had materially increased. He pointed out that new baggage cars purchased by Southern Pacific Company in the year 1949 cost about \$82,000 each whereas in the year 1925, when some of the cars now used were purchased, the cost amounted to about \$25,500 each. The witness stated that the company planned to replace the present baggage cars but he was unable to indicate the rate of replacement.

Estimates of the cost of transporting the newspaper traffic in baggage cars were not submitted. The engineer witness asserted that the full cost of performing the service could not be developed for individual commodities. It was stated, however, that the out-of-pocket cost of transporting such commodities, including newspapers, was ascertainable.

Witnesses from applicants' traffic departments introduced exhibits showing the changes that had been made in the newspaper rates since the year 1927 together with comparisons of the proposed rates with those applicable for movement in applicants' freight service and in buses of Pacific Greyhound Lines. The comparisons showed that in most instances the rates sought herein were lower than the freight and bus rates in question.

The granting of the application was opposed by various newspapers and newspaper publishers associations. Counsel for these parties participated in the development of the record through cross-examination of witnesses but no direct evidence was introduced.

To establish the alleged inadequacy of the present newspaper rates, applicants rely largely upon the finding of the Interstate Commerce Commission in Ex Parte No. 168, Increased Freight Rates, 1948, decided August 2, 1949 (276 I.C.C. 9), that the passenger train operations of the railroads as a whole in the year 1948 and prior thereto were conducted at a substantial annual loss and that much of the loss was attributable to the transportation of articles in head-end service. In addition, the record made in the instant proceeding shows that Southern Pacific Company experienced operating losses on its over-all passenger train operations amounting to about \$17,750,000 for the year 1947, \$24,560,000 for 1948 and \$34,400,000 for 1949. It was indicated that about 33 percent of the losses for the years 1948 and 1949 were assignable to the head-end service as compared with 66.6 percent shown in Ex Parte No. 168 for the railroads as a whole.

The aforesaid finding in Ex Parte No. 168 was based upon consideration of the composite operating results of the rail lines on both a nation-wide basis and according to districts. The calculations included a substantial number of railroads whose operations do not extend into California and may not be taken as being reasonably representative of the operating experience of the applicants in this proceeding. One of the applicants herein submitted figures to show that its passenger train operations were being conducted at a loss. Similar data were not submitted by the other applicants. Moreover, it was conceded by applicants that the out-of-pocket cost of

transporting newspapers in head-end service was readily ascertainable but such calculations were not offered. On the whole, the evidence introduced fails affirmatively to establish the alleged inadequacy of the present rates and the propriety of the sought increases which range from 20 percent to 208 percent. On this record, the application must be denied. The conclusion herein is not to be construed as indicating that applicants are not in fact experiencing operating losses on their passenger and head-end services. This record affords no basis for such a finding.

Upon careful consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that the increases in rates sought in this proceeding 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 the above-entitled application, as amended, be and it is hereby denied.

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

Dated at Los Angeles, California, this 24th day of October, 1950.

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