

ORIGINAL

Decision No. 46871

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BENJAMIN S. GOLDBERG and W. EARL)
GOLDBERG, doing business as FILM)
TRANSPORT CO. OF CAL., for authority } Application No. 32912
to increase their rates for the }
transportation of motion picture }
films, film accessories and related }
articles. }

Appearances

Arlo D. Poe, for applicants.

Charles H. Jacobsen, for Engineering Division,
Transportation Department of the Public
Utilities Commission of the State of
California.

O P I N I O N

Benjamin S. Goldberg and W. Earl Goldberg, copartners
doing business as Film Transport Co. of Cal., are transporting
motion picture films and accessories and confectionery and related
articles as a highway common carrier. They provide other transpor-
tation services also under the authority of permits issued by the
Commission. In this proceeding they seek authority to increase
certain of their highway common carrier rates on less than statutory
notice.

Public hearing of the application was held before
Examiner Abernathy at Los Angeles on January 10, 1952. Evidence was
submitted by one of the partners and by a transportation engineer of
the Commission's staff.

Applicants' highway common carrier services are performed
principally for approximately 150 theaters in southern California

area lying generally south of Los Angeles to the Mexican border. Motion picture film and accessories and confectionery and related articles are delivered to the theaters from film exchanges and supply houses in Los Angeles and the film is returned to the exchanges after it has been shown by the theaters. In addition motion picture film is transported to and from navy installations in the vicinity of San Diego. Applicants' other transportation services consist of the transportation of mail between San Diego and the Imperial Valley, certain contract carriage between Los Angeles and San Diego and San Diego and Imperial Valley points, the pickup and delivery of film at the Los Angeles film exchanges for an interstate carrier, and the pickup and delivery of film and accessories for theaters within Los Angeles. For operating convenience and economy the confectionery transportation, the carriage of mail, and the contract carriage are integrated with the theater film service. Assertedly the integration of these services permits the delivery of the confectionery and related articles, the mail, and the contract freight with but little additional expense over that which would be incurred in the theater film service if provided separately.¹

Only the rates for the theater film service are involved in this proceeding. Generally speaking, these rates were established at their present level in September, 1947, and except for some reductions which were made in the weekly rates in December, 1948, have been continued unchanged since. Applicants allege that in the meantime they have experienced substantial increases in their costs of operation and that as a result of the increased costs the services are

¹ Applicants' highway common carrier transportation of film and accessories, except that to and from the navy installations, will be referred to herein for convenience as the theater film service.

unprofitable and will continue to be so unless the rates are increased. They are herein proposing rate increases which they anticipate will result in an increase in revenues of about 15 percent. The rate increases which they seek vary in amount. Applicants' witness stated that in the evolution of the present rates certain inequalities have developed and that the proposed increases are designed not only to provide needed revenues but to establish a just, reasonable and nondiscriminatory rate structure. Representative examples of the present and proposed rates are shown in the margin below.

Revenue and expense data were submitted by applicants' witness to show the financial results of the theater film service for 1951 and the results attained from the other services also. The witness said that the revenue figures were taken directly from the books of account. With respect to the expense data he testified that

Rates for the transportation of motion picture film and film accessories:

Between Los Angeles and	Present Rates	Proposed Rates
Anaheim	\$ 9.26 per week	\$10.00 per week
Santa Ana	10.68 " "	11.00 " "
Laguna Beach		
1st change	6.06	7.00*
2nd and each successive change	3.56	4.00
Oceanside, San Diego		
1st change	9.62	11.00
2nd change	4.28	5.00
3rd and each successive change	3.56	5.00
El Centro, Holtville		
Each change	7.50**	11.00 1st change 7.50 2nd change and each successive change

* Minimum charge \$11.00 per week ** Minimum, 2 changes per week
 Note - Rates per change apply to changes made in one week.

no expense segregation by type of service is made in the book records and that in order to arrive at the expenses applicable to each of the various services, he had made direct allocations of expenses where possible and had allocated the balance of the expenses according to the ratio of revenues from each service to the total revenues from the combined services. The revenue and expense figures which the witness submitted are summarized in the following table:

Table No. 1
Results of Operations, 1951

	<u>Operating Revenues</u>	<u>Operating Expenses</u>	Net <u>Operating Revenues</u>
Theater film service	\$ 87,063	\$ 89,780	\$(<u>2,717</u>)
Film for United States Navy	15,642	10,335	5,307
Confectionery and related articles	8,895	5,315	3,580
Mail	7,686	2,799	4,887
Contract carriage	9,350	8,266	1,084
Interstate	44,584	14,246	30,338
Local and special services	<u>8,881</u>	<u>8,123</u>	<u>758</u>
Total	\$182,101	\$138,864	\$43,237

() Loss

Looking to the coming year, applicants' witness foresaw little likelihood of an increase in the earnings of the theater film service other than from an increase in rates. He said that because of government bans on construction no new theaters are being built and that as a result of the growth of television entertainment there is a tendency for existing theaters to close. On the expense side of the picture he looked for a continued increase in the costs of operation. The witness estimated that under present rates the

earnings of the theater film service for the coming year would be the same as or less than they were for 1951, depending upon the extent of the expected expense increases. Correspondingly, he estimated that the operating results under the sought rates would be as follows:

Table No. 2

Estimated Revenues and Expenses, 1952
Theater Film Service

<u>Operating Revenues</u>		\$101,968
<u>Operating Expenses</u>		
Equipment maintenance	\$ 8,090	
Transportation expense	34,791	
Terminal expense	3,872	
Sales and tariff	549	
Insurance and safety	4,448	
General and administrative expense	24,051	
Depreciation	5,694	
Taxes and licenses	8,096	
Operative rents	<u>730</u>	
Total Operating Expenses		\$ 90,361
<u>Net Operating Revenue</u>		\$ 11,607

The foregoing expense figures, the witness said, include no allowance for the partners' services, each of whom devotes his full time to the operations. He did not specify what figure would represent suitable compensation for the partners' time spent in administering the theater film service portion of the business. He asserted, however, that services of men capable of managing the combined operations satisfactorily could not be procured for \$500 a month each.³

Rate base data as such were not submitted by applicants. However, according to their balance sheet as of November 30, 1951,

³ The record shows that Benjamin S. Goldberg's and W. Earl Goldberg's drawings for the month of September, 1951, were \$1,378 and \$1,464, respectively.

the valuations of the properties used in the combined services were as follows:

Land		\$ 8,000
Structures	\$24,974	
Revenue equipment	20,871	
Furniture and fixtures	380	
Miscellaneous equipment	<u>7,583</u>	
	\$53,808	
Less: Reserve for depreciation	<u>19,109</u>	\$34,699
Materials and supplies		<u>1,607</u>
Total		<u>\$44,306</u>

The Commission engineer submitted an exhibit setting forth the results of an analysis which he had made of applicants' operations and records. In his exhibit the engineer developed cost figures for each of applicants' services. Except for the interstate services, which assertedly are conducted apart from the other operations, the costs were developed on the theory that applicants' costs of operation are established by the theater film service, that the remaining services are secondary to that service, and that the costs of other services are represented by the savings in expense which applicants would realize were the services discontinued. The engineer's data were based upon applicants' book figures and included adjustments to allow for known increases in operating expense and to disallow certain charges to depreciation expense which, in the opinion of the engineer, were excessive. The most important adjustment which the engineer made in the development of his data related to the charges to general and administrative expense. During the year ended with October, 1951, the period reviewed by the engineer, applicants' charges to administrative and general expense amounted to \$40,546. The engineer asserted that the proportion of applicants' general and administrative expenses to other expenses is substantially higher than

that of other transportation companies. In the development of his data the engineer used a figure of \$26,830 as representing the charge which would be reasonable for general and administrative expense, including the partners' salaries and expenses. The engineer's estimates of 1952 operating results under present and proposed rates are shown in Tables Nos. 3 and 4 which follow:

Table No. 3

Estimated Results of Operation - Present Rates
Year ending December 31, 1952

	<u>Operating</u> <u>Revenues</u>	<u>Operating</u> <u>Expenses</u>	Net <u>Operating</u> <u>Revenues</u>
Theater film service	\$ 88,440	\$ 90,280	\$(1,840)
Film for United States Navy	15,640	7,380	8,260
Confectionery and related articles	8,900	6,400	2,500
Mail	7,730	2,310	5,420
Contract carriage	12,130	8,140	3,990
Interstate	51,600	15,360	36,240
Local	<u>3,220</u>	<u>2,610</u>	<u>610</u>
Total	\$187,660	\$132,480	\$55,180

() Loss

Estimated rate base \$45,850

Operating ratio, before income taxes (see note)

Theater film service	102.0%
Combined operations	70.6%

Rate of return, before income taxes (see note)

Theater film service	None
Combined operations	120.3%

Note: Income taxes applicable to partnership not calculated. Applicable taxes would depend upon partners' personal exemptions and allowances not of record in this proceeding.

Table No. 4

Estimated Results of Operation - Proposed Rates
Year Ending December 31, 1952

	<u>Operating Revenues</u>	<u>Operating Expenses</u>	<u>Net Operating Revenues</u>
Theater film service	\$103,460	\$ 91,080	\$12,380
Film for United States Navy	15,640	7,380	8,260
Confectionery and related articles	8,900	6,400	2,500
Mail	7,730	2,310	5,420
Contract carriage	12,130	8,140	3,990
Interstate	51,600	15,360	36,240
Local	<u>3,220</u>	<u>2,610</u>	<u>610</u>
Total	\$202,680	\$133,280	\$69,400

Estimated rate base \$45,850

Operating ratio, before income taxes (see note)

Theater film service	88.0%
Combined operations	65.8%

Rate of return, before income taxes (see note)

Theater film service	27.0%
Combined operations	151.4%

Note: Income taxes applicable to partnership not calculated. Applicable taxes would depend upon partners' personal exemptions and allowances not of record in this proceeding.

Notices of the hearing in this proceeding were sent by the Commission's secretary to persons and organizations believed to be interested and were published also in the Commission's calendar. No one appeared at the hearing to oppose granting of the application.

As the foregoing summary of the record in this proceeding shows, applicants have sought to establish by cost allocations developed primarily on a revenue basis that their earnings from their theater film service are unreasonably low. The allocation of costs in proportion to revenues may be conducive of proper results in certain instances where, for example, a single class of service is involved and the rates vary with the amount of service provided. On

the other hand, where there are several classes of service and different scales of rates are applicable, the allocation of costs on a revenue basis may result in the assignment of the greatest expense to shipments which are subject to the highest rates, even though the transportation of these shipments requires no more service than lesser rated shipments.

Whether applicants' operations are such that the revenues therefrom provide an appropriate basis for distributing the costs of the separate services is a matter that cannot be determined with certainty from the data of record. Applicants did not undertake to show that their rates are proportionate to the services which are performed. Except for the film transportation involved herein and the transportation of confectionery and related articles, specific information concerning the relative levels of applicants' rates was not supplied. From such data that were furnished regarding the film and confectionery transportation, it appears that as applied to those services the revenue method of cost allocation is not sound. As between the two services it appears that the film transportation is the higher rated in relation to the service performed, that as a consequence it is burdened by applicants with a disproportionate share of costs, and that conversely the confectionery transportation is unduly favored. The operating results which applicants developed for their confectionery transportation, as set forth in Table No. 1 above, tend to bear out this latter conclusion inasmuch as the expenses which were charged to that service amount to only about 60 percent of the revenues therefrom.⁴ Aside from the fact that the revenue method of

⁴ An alternative conclusion would be that the confectionery service is quite profitable. This conclusion seems improbable in view of the rate differences noted above. However, if the service is actually as profitable as indicated, it appears that the earnings may be excessive and that a downward revision in the rates should be made. Applicants' service of transporting confectionery is performed as a highway common carrier. In accordance with provisions of the Public Utilities Code applicants' charges for their services must be just and reasonable.

cost allocation appears to be basically unsound as applied to applicants' operations, the evidence is clear that applicants have erred in important respects in the application of the revenue formula for developing costs and that as a result of these errors in calculation the costs which were reported for the highway common carrier film service are excessive. Applicants' cost data will not be accepted as suitable measure for their revenue needs.

The cost figures of the Commission engineer likewise do not provide a basis for judging the adequacy or inadequacy of the rates of applicants' transportation services. Where rate factors are being considered, the cost figures should include a fair proportion of joint costs in order that the rates which are based thereon may be reasonable and nondiscriminatory. The data submitted by the engineer bring into perspective the question of the propriety of applicants' charges to general and administrative expense. These charges for 1951, exclusive of any compensation for the partners, were more than 50 percent in excess of the amount of \$26,500 which the engineer testified is normal for operations of the size of applicants. By way of justification of the volume of the charges, applicants' witness asserted that the transportation of film is a service which requires close supervision and that considerable travel is necessary to provide the supervision required. He said that travel and entertainment expenses applicable to the theater film service for 1951 amounted to approximately \$14,000 of the \$24,014 charged to the general and administrative expense for that service. It appears that travel and entertainment accounted for about half of applicants' total general

and administrative expenses of \$41,438 for 1951 for the combined services.⁵

Due to the nature of the operations it appears that a certain amount of travel by applicants is a necessary incident to the efficient and satisfactory conduct of the services and that outlays for travel constitute a proper charge against operating expenses. However, where applicants' public utility services are concerned, the charges against operating expense should be no more than necessary and reasonable. In proceedings involving rate increases, it is incumbent upon the applicants to establish the propriety of the claimed expenses. The evidence herein is by no means clear that the full amounts of the travel and entertainment expenses are reasonable and necessary charges to operations. On the face of the record herein the charges seem inconsistent with other expense items and with the nature and scope of applicants' operations. Applicants' service area -- from Los Angeles to the Mexican border -- is relatively restricted. As a consequence

⁵ Applicants' allocation of the total charges to general and administrative expense for 1951 was as follows:

Theater film service	\$24,014
Film for United States Navy	3,364
Confectionery and related articles	1,911
Mail	948
Contract carriage	2,009
Interstate	7,282
Local and special services	1,910
	<hr/>
Total	\$41,438

it would seem that substantial outlays for transportation to reach the various parts of the area would not be required. Applicants are the only carrier providing film services to the theaters within the area. By virtue of the certificate of public convenience and necessity authorizing their highway common carrier film services they hold a full or partial monopoly on these services.⁶ It appears that these factors should tend to minimize travel and entertainment expenses necessary to offset business solicitation efforts of other carriers. New outlets for film transportation services are limited by governmental restrictions on theater construction. Present demands for the service are geared to the policies of the theater operators regarding the number of program changes per week. Under these various circumstances it appears that applicants' opportunities for productive results through travel and entertainment are limited and that charges as great as those claimed by applicants for travel and entertainment expense cannot be held to be reasonable without specific justification therefor.

In his development of the amounts which he considered to be proper charges to general and administrative expense during the coming year, the Commission engineer listed expense items totaling \$16,800 for salaries of general office employees and for other expenses, and \$10,000 for salaries and expenses of the partners. The latter amount appears low inasmuch as both partners devote their full time to the business, and incur traveling expenses in the conduct thereof. Should applicants' charges to general and administrative expense be as great as those for 1951, as applicants indicated by their figures will be the case, the amount which will be available to the partners for

⁶ Decision No. 43160, dated July 26, 1949, in Application No. 30302.

salaries and expenses will be \$24,638. In view of the engineer's evidence concerning the amount of administrative and general expense of other carriers of comparable size, it appears that the total charge of \$41,438 which is indicated by applicants' data should contain ample provision for the partners' salaries and expenses both. For the purposes of this proceeding this figure will be adopted as a basis for the Commission's conclusions herein:

The matters heretofore discussed concerning the propriety of the expense allocations among applicants' various operations pertain primarily to the intrastate services. Insofar as the interstate services are concerned, it is clear from the testimony of applicants' witness and of the Commission engineer, both, that the interstate expenses are substantially separable from the intrastate expenses without resort to many allocations. Applicants' development of the interstate and intrastate expenses being accepted, except in the above indicated respects regarding general and administrative expenses, it appears that the operating results of the two classes of operations for 1951 were as follows:

	<u>Revenues</u>	<u>Expenses</u>	<u>Net Operating Revenues</u>	<u>Operating Ratio</u>
Interstate	\$ 44,584	\$ 14,246	\$30,338	31.95%
Intrastate	137,517	124,618	12,899	90.62%
Total	\$182,101	\$138,864	\$43,237	76.26%

The foregoing results are before allowance for federal or state income taxes. The taxes which would apply may not be computed herein since the applicable tax rates are dependent upon applicants' personal exemptions and allowances which are not of record. On a corporate basis, however, the taxes which would apply to the earnings from the intrastate services would amount to \$4,231. The earnings after taxes would be \$8,668 and the corresponding operating ratio would be 93.7 percent. On the basis of the engineer's rate base of

\$45,850, which reflects the valuations of the properties used in the interstate and intrastate operations both, the indicated rate of return after taxes is 18.9 percent.

Applicants' earnings from their combined intrastate operations appear to be sufficient to maintain the services involved and to provide a reasonable return. Whether the separate services are less or more profitable than the operations as a whole, and the extent that applicants' earnings from their properties dedicated to public utility service are adequate, may not be decided without additional and revised data. On this record it is concluded and the Commission finds that the sought rate increases have not been shown to be justified. The application will be denied.

O R D E R

Public hearing of the above-entitled application having been held, the evidence received therein having been considered carefully, the Commission being of the opinion and hereby finding that the sought increases in fares have not been shown to be justified,

IT IS HEREBY ORDERED that the above-entitled application be and it is hereby denied.

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

Dated at San Francisco California, this 17th day of March, 1952.

R. J. [Signature]
 President

Justice S. [Signature]

Harold P. [Signature]

John E. [Signature]

Commissioners