Decision No. 48107

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of certain railroads and connecting highway common carriers and water lines for authority to increase local and joint freight rates and charges (1951).

Application No. 32219
(First Supplemental)

Appearances

C. W. Burkett, Jr., Otis J. Gibson, Harvey Huston, J. E. Lyons, Frederick G. Pfrommer, and Edward C. Renwick, for applicants.
Eugene R. Booker, J. R. Copeland, Jack K. Dooling, H. G. Feraud, Frank J. Rebhan, Lowe P. Siddons, and Reginald F. Walker, for various shippers and shipper organizations, protestants.
Edson Abel, Quentin W. Bernhard, Edward M. Berol, L. E. Binsacca, R. J. Blitch, Carl F. Breidenstein, Stanley T. R. Bush, E. R. Chapman, Gerald W. Collins, O. G. Cook, Wallace K. Downey, Norman Elliott, Joseph T. Enright, Waldo Gillette, William A. Gough, Lloyd Gragg, Jack E. Hale, Rudolph Illing, P. N. Kujachich, P. Steele Labagh, Axel Larsson, S. A. Moore, Robert C. Neill, John A. O'Connell, L. E. Osborne, Allen K. Pentilla, C. J. Riedy, Walter A. Rohde, A. F. Schumacher, Bertram S. Silver, Melville A. Tuchler, and Clifford Worth, for various shippers and other interests, interested parties.
T. A. Hopkins, J. H. Morrison, and Hal F. Wiggins, for the staff of the Commission.

O P I N I O N

Decision No. 46572, 51 Cal. P.U.C. 341 (1951), in this proceeding, authorized the applicant California rail lines and their connecting highway and water carriers to establish a general increase of 6 percent in their freight rates and charges, subject to specified exceptions and to certain maximum increase limitations. Applicants urge that this 6 percent increase be raised to 15 percent. They propose exceptions and limitations generally similar to those imposed in connection with the Decision No. 46572 adjustment.

Public hearings were held at San Francisco on August 25, 26, 27 and 28, and on October 15 and 16, 1952, before Commissioner Huls and Examiner Mulgrew.

At the close of the hearings counsel for the staff of the Commission submitted a motion urging that the sought further increase be denied and that the proceeding be dismissed on the grounds that supporting evidence is insufficient and that applicants have failed to comply with constitutional and statutory requirements. The motion was joined in and supported by the California Manufacturers Association. Written memoranda of points and authorities and of argument were permitted to be filed within ten days after completion of the hearings. The matter stands submitted upon the filing of such memoranda by the staff and by applicants.

Applicants contend that the revenue produced by the increased California intrastate freight rates and charges authorized by Decision No. 46572, supra, together with revenue from all other operating sources, is insufficient. They claim that this revenue will not enable them to meet their operating expenses, rents, taxes and fixed charges, to make necessary capital improvements, to pay installments on their equipment obligations, to make down payments on necessary new equipment and to continue to pay reasonable dividends. All circumstances and conditions considered, they assert, the Decision No. 46572 rate level does not produce sufficient revenue for a reasonable return to the principal California rail lines.

Applicants also contend that the sought increase is necessary to meet higher costs for wages, taxes, materials and supplies and the increased cost of securing necessary capital. They point out that the general further freight rate increase here proposed for California intrastate traffic was authorized by the Interstate Commerce Commission for interstate traffic on April 11, 1952, in Ex Parte 175, Increased Freight Rates, 1951, and that the interstate adjustment was made effective May 2, 1952. Applicants contend that the increased expenses "apply equally to California intrastate freight traffic" and that as a result the existing California rates "are not bearing their fair share of the transportation burden." Applicants also contend that California rates and charges below the level here proposed are "unfair" and "unjustly and unreasonably low in the aggregate" and that because such rates are insufficient they threaten applicants' ability to provide safe and economical service.

According to applicants, the proposed higher rates and charges would not exceed in the aggregate just and reasonable rates and charges. Granting of the authority sought, they assert, would "have the effect of equitably spreading the burden of maintaining an adequate railroad transportation system as between California intrastate traffic, on the one hand, and interstate freight traffic, on the other hand."

This is an application filed under Section 454 of the Public Utilities Code prohibiting any increase in rates by common carriers and other public utilities "except upon a showing before the Commission and a finding by the Commission that such increase is justified." Similar provisions affecting railroads and other transportation companies are contained in Article XII, Section 20, of the State Constitution. In this proceeding the burden of proof rests squarely on applicants.

There are thirty-six rail line applicants.[1] There are also seventeen connecting highway and water carrier applicants. Only the

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1 The applicants are listed in Appendix 1 to the original application, At that time, San Francisco and Napa Valley Railroad, one of the thirty-seven rail lines so listed, sought increases only in the joint rates in which it participated with other applicants. This line was specifically excepted from the supplemental application here being considered. Subsequently, it sought an increase in its local rate in a separate application, No. 33412. Decision No. 47873 of October 28, 1952, in that proceeding, found that the proposed increase had not been justified.

joint rail and highway and rail and water rates participated in by these connecting carriers are involved. No estimates were submitted of the total California intrastate tonnage involved, of applicants' aggregate annual revenue from California intrastate traffic or of the full amount of the additional annual revenue which would be produced by the establishment of the sought further increase in rates for that traffic. However, fifteen of the thirty-six rail line applicants supplied annual intrastate tonnage and revenue estimates.[2] Similar forecasts concerning the 6 percent increase then proposed were made by these fifteen lines at the hearings held prior to the issuance of Decision No. 46572, supra, which authorized that increase.[3]

With respect to the volume of California intrastate freight traffic, the fifteen rail lines referred to in the preceding paragraph previously estimated that in 1952 they would handle a total of 39,601,159 tons. They now estimate that only 36,465,734 tons will be handled. They also use this lower figure as their forecast of "constructive year" or future annual tonnage. The reduction amounts to 3,135,425 tons and is approximately 8 percent.

All of the fifteen carriers which presented California intrastate tonnage estimates also handle interstate traffic. Additionally, some of them are engaged in intrastate operations in other states. Over-all freight tonnage figures, intrastate and interstate,

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[2] These fifteen applicants are: Southern Pacific, Santa Fe, Northwestern Pacific, Pacific Electric, Western Pacific, Union Pacific, Santa Maria Valley, California Western, McCloud River, Yreka Western, Great Northern, Holton Inter-Urban, Petaluma and Santa Rosa, San Diego and Arizona Eastern and Visalia Electric.

[3] These hearings were held on September 26, 27 and 28 and October 1, 1951.

were not submitted. However, nine of the fifteen lines supplied estimates of their over-all revenue ton miles.[4] They previously estimated that their over-all revenue ton miles for 1952 would aggregate 99,489,195,000. Their present estimate for 1952 is 101,951,074,000. The increase amounts to 2,461,879,000 revenue ton miles and is approximately 2½ percent. Six of the nine lines also used their 1952 estimates as their forecasts for a constructive year. The remaining three lines offered no constructive year estimates.[5]

Applicants' revision of their California intrastate tonnage and over-all revenue ton mile forecasts are reflected in their revenue estimates. The fifteen applicants supplying such estimates for California intrastate freight traffic formerly forecast that on the 6-percent increase basis, the present rate level, their aggregate annual revenue would be $84,001,162. Their present forecast reduces this estimate to $76,759,303. The difference amounts to $7,241,859. It is a reduction of some 8½ percent. The $76,759,303 in annual revenue now estimated under the 6-percent increase basis is $2,504,100 short of the former estimate of $79,263,403 under the rate level in effect before that increase.

Under the 15-percent increase basis now sought, the fifteen applicants estimate that the aggregate revenue from California intrastate freight traffic would amount to $82,249,318 annually or $1,751,844 less than the $84,001,162 they formerly

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4 These nine lines are: Southern Pacific, Santa Fe, Northwestern Pacific, Pacific Electric, Western Pacific, Union Pacific, Santa Maria Valley, California Western and McCloud River.

5 Southern Pacific, Santa Fe and Northwestern Pacific did not supply constructive year estimates.

believed the 6-percent increase would produce. On an individual carrier basis the annual California intrastate revenue estimates under the further increase now sought range from $16,929 for Visalia Electric to $48,193,984 for Southern Pacific. Southern Pacific and five other large carriers account for the great bulk of the total revenue of the fifteen carriers. The remaining nine carriers estimate annual revenue aggregating only $2,289,660. Because the bulk of the intrastate revenue is concentrated in the six large carriers, they are separately listed in the tabulation of 1951 and 1952 revenue estimates which follows.

TABLE 1

ESTIMATED ANNUAL CALIFORNIA INTRASTATE FREIGHT REVENUE
(1951 AND 1952 FORECASTS FIFTEEN RAIL LINES)

LINE		RATE LEVEL BEFORE 6% INCREASE	EXISTING 6% INCREASE BASIS	PROPOSED 15% INCREASE BASIS	ADDITIONAL
Southern Pacific	(1951)	$46,578,103	$49,372,789	—	$2,794,686
	(1952)	—	45,098,579	$48,193,984	3,095,405
Santa Fe	(1951)	14,781,076	15,667,941	—	886,865
	(1952)	—	14,257,737	15,343,774	1,086,037
Northwestern Pacific	(1951)	7,726,323	8,189,902	—	463,579
	(1952)	—	8,182,559	8,789,265	606,706
Pacific Electric	(1951)	3,538,400	3,733,400	—	195,000
	(1952)	—	3,299,000	3,558,000	259,000
Western Pacific	(1951)	2,144,000	2,272,000	—	128,000
	(1952)	—	1,991,000	2,135,000	144,000
Union Pacific	(1951)	2,162,605	2,292,305	—	129,700
	(1952)	—	1,814,438	1,939,635	125,197
Subtotals - (6 Lines)	(1951)	$76,930,507	$81,528,337	—	$4,597,830
	(1952)	—	$74,643,313	$79,959,658	$5,316,345
Other 9 Lines*	(1951)	$ 2,332,896	$ 2,472,825	—	$ 139,929
	(1952)	—	$ 2,115,990	$ 2,289,660	$ 173,670
Totals - (15 Lines)	(1951)	$79,263,403	$84,001,162	—	$4,737,759
	(1952)	—	$76,759,303	$82,249,318	$5,490,015

*California Western, Great Northern, Holton Inter-Urban, McCloud River, Petaluma and Santa Rosa, San Diego and Arizona Eastern, Santa Maria Valley, Visalia Electric and Yreka Western.

As hereinbefore noted, there are thirty-six rail line applicants. The tonnage and freight revenue estimates of fifteen of them constitute the only tangible showing of anticipated operating experience under the proposed rate increase on California intrastate freight traffic. No estimates of operating results were submitted by the remaining twenty-one rail line applicants nor by the seventeen connecting highway and water carrier applicants. In fact, no specific showing whatsoever was made on behalf of this group of thirty-eight applicants.

As previously stated, all of the fifteen carriers which presented tonnage and revenue figures for their California intrastate traffic also handle interstate freight traffic. Southern Pacific, Santa Fe, Western Pacific, Union Pacific and Great Northern likewise are engaged in intrastate freight operations in other states.[6] In addition to their freight revenue, all of the six principal carriers, those individually listed in Table 1, have passenger and "other" operating revenue (revenue not assigned to either freight or passenger operations).

With respect to applicants' operating expenses for California intrastate traffic, their cost witnesses testified that only total expenses, intrastate and interstate, freight and passenger, could be supplied. These witnesses said that there were no means by which usable intrastate freight costs could be determined from applicants' records even by resorting to allocations. Counsel for applicants insisted that it is "impossible" to segregate California intrastate freight costs from their aggregate costs.

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[6] Great Northern's estimates of annual freight revenue from California intrastate freight operations are $29,300 under the existing rates and $31,700 under those proposed. This carrier is grouped with the "other 9 lines" in Table 1.

In regard to the investment in operating property and the other components of rate bases (materials, supplies and working cash), applicants' position is similar to their position with respect to costs. Their witnesses stated and counsel argued that California intrastate rate bases cannot be segregated from their total rate bases.

Thus, applicants' prospective operating results from California intrastate freight traffic under the sought increased rates are not susceptible of being measured by either (1) the operating ratio method (relationship of cost to revenue), because costs are not developed for the traffic under consideration, by (2) the rate of return method (relationship of net income to rate base consisting of investment, including materials, supplies and working cash), because California rate base figures are not supplied, or by (3) any other method involving consideration of anticipated earnings from the traffic in issue, because such earnings are not disclosed. The most that applicants have supplied in these respects are revenue, expense, earning, rate base and rate of return figures for all of their operations, intrastate and interstate, freight and passenger.

The six principal applicants from an intrastate freight revenue standpoint are specifically listed in Table 1. They supplied estimated aggregate operating revenue from all sources and total freight revenue, interstate and intrastate, based on "6 months actual, 6 months estimated, including effect of Ex Parte 175 increases authorized by I.C.C." Table 2, which follows, shows these estimates. It also shows, on a like part actual part estimated basis, California intrastate freight revenue for 1952 calculated by these applicants with and without effect being given to a rate increase for that traffic corresponding to the Ex Parte 175 interstate increase.

TABLE 2

Estimated 1952 Operating Revenue
(Six Principal Carriers)

Line	All Sources	Total Freight		California Intrastate Freight
Southern Pacific	$ 540,160,000	$ 456,025,000	(1) (2)	$47,023,779 44,823,559
Santa Fe	603,454,683	487,993,683	(1) (2)	14,927,317 14,200,000
Northwestern Pacific	13,187,000	12,703,000	(1) (2)	8,576,596 8,150,229
Pacific Electric	31,086,500	12,551,400	(1) (2)	3,461,000 3,285,000
Union Pacific	512,189,000	432,621,000	(1) (2)	1,892,346 1,814,438
Western Pacific	51,664,000	47,207,000	(1) (2)	2,083,000 1,940,000
Totals - (6 Lines)	$1,751,741,183	$1,449,101,083	(1) (2)	$77,964,038 $74,213,226

(1) - With effect being given to an increase in intrastate revenue corresponding to the I.C.C. Ex Parte 175 increase.
(2) - Without the effect described in (1) above.

As the foregoing table discloses, California intrastate revenue, except in the case of Northwestern Pacific, is a small part of the total revenue of the six principal applicants from all sources. The California intrastate freight revenue of Southern Pacific, Santa Fe, Western Pacific and Union Pacific likewise is a small proportion of their total freight revenue. Passenger and other operating revenue, interstate and intrastate, of the six carriers accounts for the difference of $302,640,100 between their $1,751,741,183 revenue from all sources and their $1,449,101,083 total freight revenue. Revenue from these other sources is thus shown to exceed substantially California intrastate freight revenue. The six applicants' estimates of passenger, mail and express, and other operating revenue, except freight revenue, are shown in Table 3 which follows.

TABLE 3

Estimated 1952 Operating Revenue Other Than Freight Revenue
(Six Principal Carriers)

Line	Passenger	Mail and Express	All Other	Total
Southern Pacific	$ 44,698,000	$24,345,000	$15,092,000	$ 84,135,000
Santa Fe	59,627,000	34,739,000	21,095,000	115,461,000
Northwestern Pacific	90,000	290,000	104,000	484,000
Pacific Electric	16,366,200	360,500	1,808,400	18,535,100
Union Pacific	40,370,000	22,716,000	16,482,000	79,568,000
Western Pacific	3,230,000	173,000	1,054,000	4,457,000
Totals - (6 Lines)	$164,381,200	$82,623,500	$55,635,400	$302,640,100

Tables 2 and 3 disclose that, for the six principal applicants, estimated passenger revenue alone amounts to $164,381,200 and substantially exceeds the forecasts of $74,213,226 in California intrastate freight revenue under the present rates and $77,964,038 under the proposed rates. Revenue from all sources except freight, estimated by the applicants as $302,640,100, is almost four times the California freight revenue forecast under the sought rates. Mail and express revenue exceeds the California freight revenue, as the tables indicate. For Southern Pacific, passenger revenue and California freight revenue are of approximately equal importance from a revenue producing standpoint. In the case of Santa Fe, its passenger revenue is about four times as great as its California freight revenue. Pacific Electric's passenger revenue is about five times as great. Western Pacific's passenger revenue is well above its California freight revenue. Union Pacific has a relatively small volume of revenue from its California freight business.

A witness for certain of the protestants submitted an exhibit showing passenger and allied service deficits for 1951 as reported to the Interstate Commerce Commission. This exhibit shows deficits of $37,988,000 for Southern Pacific, $36,472,000 for Santa Fe, $528,585 for Northwestern Pacific, $42,062,000 for Union Pacific and $1,837,747 for Western Pacific.

This is not a proceeding where the preponderance of applicants' over-all revenue or even a relatively large portion of that revenue is derived from the particular traffic in issue. On the contrary, the traffic to which the increase is proposed to be applied represents, on the whole, a relatively small proportion of total revenue. For the traffic proposed to be made subject to the increase, however, the upward adjustment is substantial. The aggregate annual increase involved as hereinbefore noted, was not estimated by the applicants. The fifteen applicants supplying forecasts, as Table 1 shows, calculated their annual increase in revenue under the sought higher rates as aggregating $5,490,015.

As hereinbefore noted, operating results from the California intrastate freight traffic here in issue are not susceptible of being measured by any method requiring consideration of earnings from that traffic because such earnings are not of record. Estimates of over-all results are all that have been supplied.

The six most important applicants, considering the California intrastate freight revenue involved, are Southern Pacific, Santa Fe, Northwestern Pacific, Pacific Electric, Union Pacific and Western Pacific. They account for $5,316,345, or 96.8 percent of the total $5,490,015 estimated annual increase for the group of fifteen carriers.

Santa Fe's principal California passenger fares were recently before the Commission in Application No. 32771. Decision No. 47935 of November 18, 1952, in that proceeding, authorized the proposed increases in these fares. The decision points out that even on the increased fare basis the company anticipates an annual loss of $3,158,220 and an out-of-pocket loss of $319,128 in rendering the service involved. Santa Fe here is seeking an increase in its intrastate freight rates estimated to amount to $1,086,037 annually. The anticipated out-of-pocket passenger loss above referred to is approximately 30 percent of this sum.

Pacific Electric predicts an over-all net loss of $895,900 for 1952. Its estimated passenger revenue, $16,366,200, accounts for more than one-half of its estimated total revenue of $31,086,500. Its passenger fares within the metropolitan area of Los Angeles County, along with the fares of Los Angeles Transit Lines, were recently before the Commission in Application No. 33317. Decision No. 47830 of October 14, 1952, in that proceeding, authorized an increase which the Commission said would not "return reasonable revenues" to Pacific Electric. The decision pointed out that, while higher fares for Pacific Electric could not be established in its joint application with Los Angeles Transit Lines, it was not precluded from seeking such other or different relief as it might deem justified. It also has on file Application No. 33752 asking increased interurban fares, which has been partially heard.

In Application No. 33317, both the company and the Commission's staff submitted constructive year estimates of revenue and expense for the particular local passenger operations in question. The company also submitted a historical rate base figure covering the property involved in rendering this service. The local operations, according to both the company's and the staff's estimates, account for more than $8,000,000 in annual revenue and will be conducted at an annual expense exceeding the revenues. Pacific Electric's witness estimated that the company's annual loss from its total passenger operations would amount to $2,412,771 at the fare levels prevailing before the Decision No. 47830 increase. Its over-all estimates, passenger and freight, in the case at hand therefore are of little or no value. Pacific Electric, it should be noted, was able to segregate expense and investment in the passenger fare case.

Union Pacific's California annual intrastate freight revenue estimates are below $2,000,000 and its estimate of aggregate revenue from all sources more than $512,000,000. The intrastate revenue is less than four-tenths of one percent of the total revenue. Accordingly, from a total earning standpoint, its over-all operating results are not influenced appreciably by the results from its California intrastate freight operations. Conversely, its over-all operating results have little weight in making determinations with respect to earnings from California freight service.

Excluding Pacific Electric and Union Pacific for the foregoing reasons, the estimated over-all operating results of the remaining four principal carriers will now be discussed. This group of four carriers is made up of Southern Pacific, Santa Fe and Northwestern Pacific, the three most important applicants from a California intrastate freight revenue standpoint, and Western Pacific. While all of them estimated 1952 over-all operating results, only Western Pacific also estimated such results on a constructive year basis.

In this proceeding in which rates for the future are in issue future operating results are a most important consideration. Prospective results for 1952 are valuable to the extent that they are indicative of those which reasonably may be anticipated under the proposed rates and under the expenses to be incurred in providing service.

The 1952 estimates of Southern Pacific, Santa Fe and Northwestern Pacific understate the additional annual revenue because they are based on the increased rates only for the period from May 2 to the end of the year. Insofar as California intrastate freight revenue alone is concerned, this understatement amounts to $1,799,331 ($70,527,692 for 1952 as against $72,327,023 for a constructive year). It is evident, of course, that on an over-all freight revenue basis the understatement, particularly where Southern Pacific and Santa Fe are concerned, is much greater.[7] Western Pacific's forecasts of over-all freight revenue are $47,207,000 for 1952 and $48,509,000 for a constructive year. Obviously, estimated 1952 freight revenue is not representative of future annual revenue under the 15-percent increase basis now in effect on interstate freight traffic and here sought to be made applicable also to California intrastate freight traffic.

The 1952 estimates of over-all net railway operating income, rate base and rate of return submitted by the four carriers referred to in the preceding paragraph are shown in Table 4 which follows.

TABLE 4

Estimated 1952 Over-All Rate Base, Net Income and Rate of Return (Four Principal Carriers)

Line		Rate Base	Net Income#	Rate of Return#
Southern Pacific	(1)	$1,285,431,523	$ 54,663,000	4.25%
	(2)	920,649,069	54,663,000	5.94
Santa Fe	(1)	1,215,941,000	70,849,000	5.83
	(2)	1,105,035,000	70,849,000	6.41
Northwestern Pacific	(1)	58,516,778	586,200	1.00
	(2)	33,392,769	586,200	1.76
Western Pacific	(1)	139,739,000	5,043,000	3.61
	(2)	120,221,000	5,043,000	4.19
Totals (4 Lines)	(1)	$2,699,628,301	$131,141,200	4.86%
	(2)	2,179,297,838	131,141,200	6.02

- After provision for taxes, including income taxes.

(1) - Company valuation.

(2) - I.C.C. valuation.

[7] This is occasioned by the fact that the interstate increase established pursuant to the I.C.C.'s Ex Parte 175 authority of April 11, 1952, was made effective May 2, 1952. As a result, the 1952 estimates include additional revenue for only eight months of the year.

As hereinbefore observed the 1952 forecasts underestimate prospective constructive year revenue. Western Pacific, the only carrier of the four listed in Table 4 which submitted constructive year estimates, forecasts annual future net income of $5,668,000 which is $625,000 more than its 1952 estimate of $5,043,000. This increase amounts to 12.39 percent. On the basis of the I.C.C. valuation, its anticipated rate of return on a constructive year basis is 4.71 percent as against 4.19 percent for 1952. Increases in the 1952 net income of the other three carriers corresponding with the Western Pacific increase would produce rates of return on I.C.C. valuations of 6.67 percent for Southern Pacific, 7.21 percent for Santa Fe and 1.97 percent for Northwestern Pacific. The weighted average rate of return for the four carriers would be increased from 6.02 to 6.76 percent.

Certain of the protestants submitted net operating income figures taken from I.C.C. reports covering twelve-month periods ended June 30, 1952 and August 31, 1952. The resulting rates of return on the basis of I.C C. valuations are shown in Table 5.

TABLE 5

Rate Base, Net Income and Rate of Return
Twelve-Month Periods as Indicated
(Four Principal Carriers)

Line	Rate Base		Net Income#	Rate of Return#
Southern Pacific	$ 920,649,069	(1)	$ 54,212,535	5.89%
		(2)	54,971,000	5.97
Santa Fe	1,105,035,000	(1)	75,621,782	6.84
		(2)	85,584,000	7.74
Northwestern Pacific	33,392,769	(1)	593,163	1.78
		(2)	x	x
Western Pacific	120,221,000	(1)	6,594,000	5.48
		(2)	6,650,000	5.53
Totals (4 Lines)	$2,179,297,838	(1)	$137,021,480	6.29%
(3 Lines)	2,145,905,069	(2)	147,205,000	6.86

\# - After provision for taxes, including income taxes.
x - Not supplied.
(1) - Twelve months ended June 30,1952.

(2) - Twelve months ended August 31, 1952.

The net income figures in the foregoing table do not reflect revenue under the proposed California increase nor revenue under the similar interstate increase of May 2, 1952 for the full twelve-month periods. On the other hand, these net income figures, of course, do not indicate the impact of such increases in expenses as may have been experienced subsequent to the periods involved or the impact for the full periods of any increases in expenses experienced during those periods.

Compilations made from applicants' monthly reports and submitted by the Commission's staff disclose that the January through September 1952 net income of the principal carriers exceeded their net income for the corresponding nine-month period in 1951. For Santa Fe, which showed the greatest improvement, 1952 net income is reported as $52,031,774. The corresponding 1951 figure is $37,459,517.

Western Pacific, unlike the other principal carriers, reported a decline in net income. For the 1952 period its net income is reported as $4,435,459. The corresponding figure for 1951 was $5,146,603. Its September 1952 net income was $735,834 as contrasted with $367,186 for September 1951.

Applicants stressed the increased costs they have experienced for wages and for materials and supplies. They submitted studies showing the relation of present costs to 1940 costs for labor, materials and supplies and fuel. According to the studies, in 1951 each of these three cost factors increased substantially over the corresponding costs for 1950. However, in 1952 the wage rate increase over 1951 was not as great as the 1950-1951 increase. The materials and supplies increase also was not as great. Fuel prices were lower.

With respect to wages, Southern Pacific showed that, with 1940 representing 100, labor costs had risen to 215 in 1950, to 242 in 1951 and to 249 in August 1952. For Santa Fe, the corresponding figures are 220.8 in 1950, 245.7 in 1951 and 256.8 in July 1952. Southern Pacific estimated that in 1951 the wage increases then granted amounted to $27,273,099 annually. The 1952 increases are estimated at $6,977,068. Santa Fe's corresponding estimates are $30,280,000 and $6,317,609.

On a similar basis, Southern Pacific showed materials and supplies as having advanced from 100 in 1940 to 207 in 1950, to 212 in 1951 and to 213 in August 1952. Santa Fe's estimates are 181.5 in 1950, 206.3 in 1951 and 206.6 in July 1952.

For fuel, Southern Pacific's studies indicate that this cost had risen to 180 in 1950, and to 204 in 1951, but that in August 1952 it had dropped back to 201. Similarly, Santa Fe showed that the 1950 index of 195.7 had gone up to 221.3 in 1951, but that it was only 208.0 in July 1952.

Dollar estimates of the effect of changed costs were submitted only for labor expense. The effect of changed prices for materials and supplies and for fuel and other costs is not disclosed by applicants' showing.

It will be remembered that in 1951 the applicants were seeking a 6 percent general increase. They are now urging that this increase be made 15 percent. In 1951 they were faced with substantially greater increased costs for the important cost elements of wages, materials and supplies and fuel. None of the subsequent increases, it appears, are as great as the 1951 increases. Fuel costs have declined.

In authorizing the 6 percent increase basis in Decision No. 46572, supra, the Commission gave effect to the substantial cost increases and to the estimated over-all annual net income reflecting the greater costs and higher rates. Net income was estimated as $45,488,000 for Southern Pacific, $54,281,000 for Santa Fe and $6,970,000 for Western Pacific and the resulting rates of return on I.C.C. valuations as 4.50, 5.01 and 5.92 percent, respectively.

Applicants' present estimates for 1952 are net income of $54,663,000 for Southern Pacific and $70,849,000 for Santa Fe with rates of return of 5.94 and 6.41 percent, respectively. Although these applicants are the two with the great bulk of the total California freight business and revenue and therefore have the greatest sums of money at stake, and although 1952 estimates understate constructive year estimates, Southern Pacific and Santa Fe elected not to supply constructive year estimates or even the data essential to the making of such estimates. Western Pacific estimated net income of $5,043,000 and a rate of return of 4.19 percent for 1952 and net income of $5,668,000 and a rate of return of 4.71 percent for a constructive year.

Applicants are insistent that rates of return for the California intrastate freight traffic here under consideration cannot be developed. It is not represented, nor does the record in any way suggest, that applicants' over-all rates of return would approximate even closely those which might be expected from the California freight traffic. There is no information on this question. The estimated over-all rates of return of record serve to indicate, however, that applicants' contention that the insufficiency of the present California intrastate freight rate level threatens their ability to provide safe and economical service does not rest on a solid foundation. From these rates of return it is clear that the principal applicants' financial position is improving rather than deteriorating. It is also clear that the intrastate freight rate structure, on the whole, exerts a relatively minor influence on over-all results of the chief applicants.

From all that has been said with respect to income and rates of return it is evident that applicants have not substantiated their contention that, all circumstances and conditions considered, the Decision No. 46572 rate level does not produce sufficient revenue for a reasonable return to the principal California rail lines. The record does not supply the facts necessary to support a conclusion that the California intrastate freight rates are insufficient from a rate of return standpoint.

While it is generally recognized that rate of return is a valuable index of common carrier and other public utility earning requirements, this important index is not regarded as the only means of measuring such requirements. All relevant available data, without restriction to any particular index or formula, are weighed in reaching conclusions with respect to whether or not proposed increases are justified.

Applicants also have contended that intrastate freight rates below the proposed level are unjustly and unreasonably low in the aggregate. This contention is not bottomed on any specific information as to the costs for the service involved nor supported by any other tangible showing. It appears to be part and parcel of applicants' further allegations that the increased expenses apply equally to the intrastate freight traffic and that, unless an increase comparable with the interstate increase is established, the California traffic will not bear its fair share of the transportation burden. Here again, applicants' allegations are not supported by tangible evidence. The cost increase information is incomplete. No information has been supplied on the question of what share, if any, of the cost increases should be shouldered by passenger and other service not covered by the intrastate freight rate adjustment. Furthermore, it is obvious that it would be only by sheer coincidence that increases in expenses would be equal for all segments of the far-flung operations of applicants and for all the wide variety of different transportation services they provide. A determination of California freight traffic's fair share of the transportation burden cannot be made from the information supplied by this record.

The record shows, moreover, that Southern Pacific, the principal applicant, intends to survey its entire rate structure. Its immediate purpose is to discover so-called "low-spot" rates (rates considered unduly low) and to take the steps necessary to get these rates adjusted. The time necessary to accomplish this is estimated as at least a year. Other rail lines have joined Southern Pacific in the first stage of this survey, consideration of the rates between San Francisco and East Bay cities and related rates. Their intentions with respect to further participation are not disclosed. It is contended that the applicants' revenue needs are such that they cannot wait for such adjustments.

This is not a new problem. All of the State's for-hire carriers were made respondents in Case No. 4808, a general rate investigation instituted by the Commission on its own motion in December 1945, to insure adequate and economical transportation facilities during and after the transition period following World War II. All interested parties were repeatedly urged to participate in the development of a complete record in the proceeding.

During the course of the hearings in 1949 in this investigation, it was contended that numerous rail carload commodity rates were depressed, that many of these rates reflected unregulated truck competition of the early 1930's and that such rates should be adjusted to normal levels so as not unduly to depress also the corresponding truckload rates. Spokesmen for the rail lines then stated that their commodity rates were being studied and that their management should have discretion in determining the necessary adjustments. The record afforded no basis for requiring changes in carload commodity rates. Southern Pacific's "low-spot" rate survey which is now under way is seemingly the only result of the rail lines' former study.

Much earlier, in Decision No. 31606, 41 C.R.C. 671 (1938), a decision issued in Case No. 4246, a previous general rate investigation involving all for-hire carriers, the Commission admonished the rail lines "to analyze their rate structures carefully and make every effort to remove maladjustments which have resulted from rate reductions to meet unregulated highway competition, or otherwise, and to advise the Commission from time to time as to the progress made." World War II intervened, and the Case No. 4808 general investigation above discussed superseded Case No. 4246.

Whether or not such preferences and prejudices as may now exist in applicants' California rate structure are unjust or undue of course is not susceptible of being determined on this record. Preferences and prejudices would be heightened, however, by the imposition of a uniform increase as here proposed.

In both of the general investigations of California intrastate rates, Cases Nos. 4246 and 4808, the respondent rail lines took no action to adjust their carload commodity rates, the rates under which the bulk of the rail traffic is moved, or to refute by appropriate showings contentions that these rates required adjustment. They have failed to heed the admonition of the Commission in Decision No. 31606. Aside from the belated "low-spot" survey, they have displayed no disposition to either initiate commodity rate adjustments or to demonstrate that changes are not warranted. They have had ample time and opportunity to do so.

Moreover, applicants' intrastate rates have been the subject of recent further inquiry in Case No. 4808. At a series of hearings concluded on November 18, 1952, the rail lines still refrained from taking any action with respect to adjustment of their commodity rates. They asked, however, that they be authorized to make increases in their intrastate class rates corresponding with such increases as might be established in highway carrier class rates. Applicants' interstate class rates are under investigation by the Interstate Commerce Commission in its Dockets Nos. 30416, Class Rates, Mountain-Pacific Territory and 30660, Class Rates, Transcontinental Rail, 1950.

From the foregoing it appears that applicants have not taken the steps required to make desirable and necessary adjustments in their intrastate rate structure or to demonstrate that this rate structure does not need adjustment. A further horizontal increase in the rate levels of that structure would serve to aggravate any maladjustments in the rates. Required adjustments in rate relationships should be made at the same time as or prior to further changes in the rate levels. Rates must be nondiscriminatory as well as reasonable.

In regard to the question of whether or not interstate shippers are prejudiced by the maintaining of the 15-percent increase on interstate traffic while the 6-percent increase remains in effect on intrastate traffic the record is extremely sketchy. Applicants made no effort to establish that undue and unlawful prejudice exists by making specific showings of any particular rates claimed to create such prejudice. On cross-examination, applicants' rate witness said that there had been a number of instances where interstate shippers had complained. Whether or not there is any unjust or undue prejudice on this score is a question on which this record sheds no light.

A considerable amount of other evidence was introduced. For example, applicants and the Commission's staff showed over-all intrastate and interstate, freight and passenger, operating ratios calculated before provision for the important expense items of taxes and equipment and joint facility rents. These showings are of little or no assistance in determining whether or not increased rates are necessary. There are many other ramifications of the record which, because of the shortcomings of the showing made on the critical considerations hereinbefore treated, do not require discussion. The infirmities of applicants' showing have been sufficiently outlined. Further discussion would serve no useful purpose. All of the evidence and argument has been carefully weighed. Applicants have failed to sustain the burden of proof by producing persuasive evidence that the proposed rate increase is justified. In the circumstances, more extensive treatment of the record is not necessary in this opinion.

Upon consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the rate increase proposed in this supplemental application has not been justified. Accordingly, it will be denied.

ORDER

Based on the evidence of record and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the above-entitled supplemental 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 22nd day of December, 1952.

R. T. [illegible]
President

Justus F. Craemer

Harold P. Huls

Kenneth Potter

Peter E. Mitchell

Commissioners