NB

Decision No. 48914 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Thomas W. Gilboy, Thomas E. Gilboy and Patricia Gilboy Shortall, a co-partnership, doing business as Gilboy Company for authority to increase rates.)	Application No. 34227

Richard C. Shortall, for applicant.
Charles M. Thall, for California Theaters Association, interested party.
Grant L. Malquist, for the Commission staff.

O P I N I O N

Applicants are engaged in the transportation of motion picture film and supplies as a highway common carrier between San Francisco and Los Angeles and intermediate points and between San Francisco and points in northern California as far north as Eureka and Redding. They also operate as a city carrier of the same commodities within San Francisco and as a highway contract carrier for the transportation of newspapers between San Francisco and various points in northern California. By this application, as amended, applicants seek authority to increase their highway common carrier rates and charges by 25 per cent on less than statutory notice.[1]

A public hearing of the application was held at San Francisco on June 26 and July 3, 1953, before Examiner Jacopi.

1/ No increase is sought in the present common carrier rates applicable between San Francisco and points in the East Bay area.

No one appeared in opposition to the granting of the application. A member of the Commission's staff assisted in the development of the record through examination of the witnesses.

The common carrier operations in question were commenced in 1935. They consist of the delivery of motion picture film and supplies from film exchanges or distributors in San Francisco to theaters throughout most of California. The rates for these services last were adjusted by Decision No. 46781 of February 19, 1952, in Application No. 32976, when a 6 per cent advance was authorized. It is alleged that the earnings under the present common carrier rates again are inadequate as a result of advances in the cost of operation coupled with loss of business occasioned by the closing of some 46 theaters in northern California in the past year.[2] Assertedly, the additional revenue from the sought rate adjustment is needed to cover the higher costs and to assure the maintenance of adequate transportation service for the motion picture industry.

Evidence in support of the proposal was offered by applicants' managing partner and by their accountant. The evidence included a series of exhibits designed to show the earning position for the over-all operations consisting of the common, contract and city carrier services and separately for each of these operations. It was explained that the contract carrier movement of newspapers was handled in the same vehicles and over the same routes used for the common carrier shipments of motion picture film and supplies and that, to a certain extent, joint usage of some facilities also was

2/ The closing of most of the theaters was attributed mainly to the influence of television upon the motion picture theater business.

involved in the San Francisco city carrier and the common carrier movements of film. In developing the separate financial results of operations of the common, contract and city carrier services, separations of the over-all operating expenses were made on percentages generally based upon judgment rather than upon service or other units derived from the actual operating statistics. Inaccurate distribution of the costs to the various services resulted under the percentage bases employed and the separate operating results so calculated are not acceptable for the purpose of this decision. In the circumstances, applicants' revenue needs must be viewed on this record primarily from the standpoint of the over-all earning position.

The evidence shows that for the year 1952 the over-all operations produced net revenue under the present rates amounting to $34,915 before provision for income taxes. The gross revenues amounted to $537,608, the expenses were $502,693 and the operating ratio before taxes was 93.5 per cent. It was shown, however, that the foregoing book figures were not representative of the current earning position because of increases that occurred in expenses which were not fully reflected in the 1952 results. It was explained that negotiations with labor organizations concluded in March 1953 resulted in an increase of 10 cents per hour for drivers and terminal employees and in a cost of $10 per month per man for an employee welfare plan, retroactive to October 1, 1952. In addition, the costs of materials and supplies and of insurance coverage were shown to have advanced by 7 per cent and 30 per cent, respectively.

To show the effect of the increases in costs, exhibits were introduced by applicants' accountant covering the earnings for the over-all operations based upon the eight-month period extending from October 1, 1952 to May 31, 1953. The operating results under the present rates reflected the book figures which included the aforesaid increase in labor costs throughout the period. The other advances in expenses were included in the book figures only to the extent that they were in effect during the period. For the over-all operating results anticipated with the proposed common carrier rates in effect, the book figures were adjusted to provide in full for known cost increases, including the advance in fuel tax that became effective July 1, 1953. In addition to these expense adjustments, provision was made for advances in the wages of all employees which it was considered probably would be necessary upon the expiration of labor agreements on October 1, 1953. The latter additional costs, however, must be viewed on this record as being purely speculative at this time and will not be allowed in the operating expenses for the purpose of this decision.3/ With this adjustment, the results of the over-all operations summarized from applicants' exhibits would be as shown below:

Adjusted Results of Applicants' Over-all Operations Under the Present and Proposed Rates Based Upon Operations for the Period October 1, 1952 to May 31, 1953, Inclusive.

	Present Rates	Proposed Rates
Revenues:		
Common Carrier	$254,831	$301,306
Contract Carrier	74,960	74,960
City Carrier	15,493	15,493
Total Revenues	345,284	391,759
Operating Expenses	343,541*	352,030*
Net Before Income Taxes	1,743	39,729
Estimated Income Taxes	293	14,046
Net After Income Taxes	1,450	25,683
Rate Base	216,009	216,009
Rate of Return	0.7%	11.9%
Operating Ratio After Income Taxes	99.6%	93.4%

* Interest charges of $468 eliminated from operating expenses.

3/ The Commission heretofore has said that upward wage adjustments which are not in the form of definite commitments but are to be the subjects of negotiations will not be considered in determining the results of operations. (See Decision No. 46618 of January 4, 1952 (51 Cal. P.U.C. 371, 376).)

Conclusions

It is apparent from the record that if the advances experienced in the operating expenses had been in effect during the entire eight-month period the over-all operations would have been conducted at a loss under the present rates instead of earning net revenue of $1,450 after income taxes as shown in the foregoing tabulation. Clearly, additional revenue is needed to sustain the operations.

Although the separate operating results submitted for the various services are not acceptable because of inaccurate separations of the expenses, other evidence of record tends to establish that the unfavorable earning position of the over-all operations is influenced substantially by the present level of the common carrier rates. The operations are geared primarily to the common carrier movement of motion picture film and supplies and about 75 per cent of the over-all revenue is earned from the film traffic. The contract carrier newspaper shipments which are handled with the common carrier traffic were shown to require considerably less handling than the film traffic. According to the record, the newspaper rates were increased by 6 per cent as soon as the advances in costs hereinbefore mentioned were experienced. As to the city carrier movements and the transbay portion of the common carrier service, the record indicates that the earnings under the present rates are profitable but not to the extent claimed by applicants. Under the foregoing circumstances and in the absence of more accurate separations of the operating expenses, this record supports an increase of 20 per cent in the common carrier rates but no more. It will be authorized in lieu of applicants' proposal. With this adjustment in effect and with the contract carrier and other rates at their present levels, the over-all operations would earn annual net revenue of $19,577 after provision for income taxes. The corresponding operating ratio would be 94.9 per cent and the rate of return would amount to 9.06 per cent which we hereby find to be reasonable.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and hereby finds that an increase of 20 per cent in applicants' common carrier rates and charges has been justified. The request to establish the increase herein authorized on less than statutory notice appears to be reasonable. It will be granted. In all other respects, the application will be denied.

Inasmuch as this proceeding involves only the applicants' over-all revenues, no study has been made of individual rates or charges. In authorizing an increase in the rates and charges by a given percentage, the Commission does not make a finding of fact of the reasonableness of any particular rate or charge.

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 Thomas W. Gilboy, Thomas E. Gilboy and Patricia Gilboy Shortall, a copartnership doing business as Gilboy Company, be and they are hereby authorized to establish on not less than five days' notice to the Commission and the public, an increase of 20 per cent in the rates and charges published in their Local Freight Tariff No. 6, Cal. P.U.C. No. 3 (series of Thomas W. Gilboy), except that no increase shall be made in the rates and charges applicable between San Francisco and Oakland, Alameda, Emeryville, Berkeley, Albany, Piedmont, San Leandro and Hayward, as proposed in the application, as amended, filed in this proceeding; and that in computing the increased rates and charges herein authorized, fractions of less than one-half cent shall be dropped and fractions of one-half cent or over shall be increased to the next whole cent.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicants will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, 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 will be construed as consent to this condition.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

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

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

Dated at San Francisco, California, this 4th day of August, 1953.

R. E. Mittelstaedt
President

Justus F. Craemer

Harold P. Huls

Kenneth Potter

Peter E. Mitchell
Commissioners