

ORIGINAL

Decision No. 52553

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RAILWAY EXPRESS AGENCY,)
 INCORPORATED, a corporation, for)
 authority to make permanent on Cali-)
 fornia intrastate express rates for)
 milk, cream and related products the)
 15 per cent surcharge due to expire)
 on December 31, 1955.)

Application No. 37498

Pillsbury, Madison & Sutro by Eugene M. Prince
 and Dudley A. Zinke, for applicant;
Joseph Q. Joynt, for California Farm Bureau
 Federation, interested party;
J. W. Mallory, for the Commission staff.

O P I N I O N

Railway Express Agency, Incorporated, is an express corpo-
 ration operating over the lines of railroads and other common carriers.
 By this application it seeks authority to make permanent the increases
 which resulted from the establishment of a temporary surcharge of
 15 per cent on its California intrastate commodity express rates for
 the transportation of milk, cream and related products.¹ The afore-
 mentioned surcharge was established on April 6, 1954, pursuant to the
 Commission's Authority No. 454-1021, dated January 26, 1954,² and,
 under the terms of that authorization, expired with December 31, 1955.³

¹ The commodities involved herein are milk, cream, condensed milk, cottage cheese, pot cheese and unflavored ice-cream mix. The rates in question are stated in cents per 100 pounds, vary with distance and, with certain exceptions, apply generally between all points in California served by applicant. They are published in Section 9 of applicant's California Commodity Tariff Cal.P.U.C. No. 230.

² Authority No. 454-1021 was granted ex parte and was handled on the Commission's so-called "special docket".

³ It is proposed herein to merge the 15 per cent increase into the base rates. Since the surcharge has already expired, the instant application, in effect, seeks to restore and make permanent the increase in question.

Public hearing of the application was held on December 28, 1955, at San Francisco, before Examiner Carter R. Bishop.

Applicant's regional traffic manager testified in support of the request. He reviewed the history of the 15 per cent surcharge and explained its relationship to surcharges of the same volume concurrently applicable to rates for the transportation of the same commodities in interstate express and baggage service, and in California intrastate baggage service. This testimony may be summarized as follows:

The aforementioned temporary authority was secured in order to place applicant's rates on milk, cream and related commodities on the same level as that of the railroad rates for the transportation of the same commodities in railroad baggage service. These latter rates had been previously increased by a temporary 15 per cent surcharge authorized by this Commission's Decision No. 49290, dated November 3, 1953, in Application No. 32219 (First Supplemental). That surcharge was scheduled to expire with December 31, 1955, but the rail lines, by Decision No. 52285, dated November 29, 1955, in Application No. 32219 (Third Supplemental) were authorized to make permanent the 15 per cent increase in baggage rates. This was done by merging the increase into the base rates, concurrently allowing the surcharge to expire.⁴

The record also discloses that the 15 per cent surcharges for the transportation in California intrastate commerce of the commodities here in issue, both in express and baggage service, parallel

⁴ The increases authorized by Decision No. 49290 and made permanent by Decision No. 52285, supra, applied generally, subject to certain exceptions, to the rates of the rail lines for the transportation of property between points in this state. The latter decision was granted ex parte.

surcharges of the same percentage which have been established in connection with interstate movements of those commodities. The interstate surcharges, which were also initially subject to an expiration date of December 31, 1955, have now been permanently incorporated into the base rates.

The traffic manager pointed out that for many years applicant has maintained its California intrastate rates on milk, cream and related products on the same level as that of the railroad passenger train baggage rates for the same commodities. Such a parity of express and baggage rates is necessary, he asserted, in order to avoid discrimination between shippers utilizing baggage service, on the one hand, and those who employ express service, for equal distances, on the other. In this connection he asserted that baggage and express shipments of the commodities in question are often transported in the same cars and are accorded substantially the same services.

According to the witness, applicant handles a negligible amount of milk and cream traffic in California intrastate commerce. This, he stated, was due to the fact that the major railroads of California, with the exception of the Western Pacific, reserve the right to handle in passenger train baggage service all shipments of the commodities in question which are transported locally over their respective lines. Consequently, the milk and cream traffic handled by applicant in California intrastate commerce is, with the above-mentioned exception, confined to shipments entailing a movement over more than one underlying rail carrier, and is assertedly, of small volume.

No one opposed the granting of the application.⁵

⁵ Notices of the hearing of the application were sent out statewide in advance to interested persons and organizations.

The instant application seeks only to restore and make permanent the rate increase previously authorized on a temporary basis. In view of all the circumstances, the Commission is of the opinion and hereby finds that the relief sought herein has been justified. No change in express rates and charges from those in effect on December 31, 1955, will result except to the extent caused by the disposition of fractions in incorporating the aforementioned 15 per cent surcharge into the rates. The application will be granted.

In order to minimize the lapse of time between the expiration of the surcharge and the effective date of the restored rate increases authorized herein the order which follows will be made effective five days from the date of its issuance. Applicant will be authorized to make the revised rates effective on not less than two days' notice to the Commission and to the public in lieu of one day as sought.

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, on not less than two days' notice to the Commission and to the public, the increased rates as proposed in the application filed in this proceeding.

IT IS HEREBY FURTHER ORDERED that in computing the increased rates herein authorized, fractions of less than $\frac{1}{2}$ cent shall be dropped and fractions of $\frac{1}{2}$ cent or more shall be advanced to the next whole cent.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that Railway Express Agency, Incorporated, 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 a 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.

The effective date of this order shall be five days after the date hereof.

Dated at Los Angeles, California, this 31st day of January, 1956.

[Signature]
 President

Justin J. Caswell

Raulo Vesterinen

Marion D. Cook

[Signature]
 Commissioners