

ORIGINAL

Decision No. 55781

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
UNION PACIFIC RAILROAD COMPANY, a)	
corporation, and RAILWAY EXPRESS)	Application No. 39241
AGENCY, INC., a corporation, for)	
authority to abandon and close Nipton)	
Station, San Bernardino County,)	
California.)	

E. E. Bennett and Jack W. Crumley, for applicant.

Schultheis & Laybourne, by Norman R. Dows, for Molybdenum Corporation of America; Ted W. Bernhardt, for a group of protestants in and around Nipton and Nipton Mercantile Co.; Albert E. Weller, County Counsel, for Board of Supervisors, San Bernardino County; G. T. Martin, for Business Men's Association of Searchlight, Nevada, and Electro Chemical Corp. of Nevada; and Donald McCaskey, M.D.; protestants.

William Smith for Baker Area Chamber of Commerce, interested party.

O P I N I O N

By the application herein, filed on July 16, 1957, applicants Union Pacific Railroad Company, a corporation, and Railway Express Agency, Inc., a corporation, request authority to abandon and close the railroad station at Nipton, San Bernardino County, California.

A public hearing was held in this matter before Commissioner Ray E. Untereiner and Examiner Kent C. Rogers in

1/ A similar application was denied by the Commission on September 18, 1956 (Decision No. 53779, dated September 18, 1956, in Application No. 37732).

San Bernardino on September 27, 1957, evidence, oral and documentary was adduced and the matter was submitted for decision. Prior to the hearing notice thereof was posted at the Nipton station as required by this Commission.

In rail miles, Nipton is 42 miles east of Kelso, California, and 37.5 miles west of Sloan, Nevada, the nearest railroad agency stations. One passenger train each day each way operates through Nipton and passengers will be picked up or discharged but passenger tickets are not sold at the station. As a result, passenger revenues have not been credited to the station. A local freight train is operated between Las Vegas, Nevada, and Yermo, California. This train runs westbound on Monday, Wednesday and Friday, and eastbound on Tuesday, Thursday and Saturday. There are other freight trains through Nipton but usually the Nipton freight traffic is handled on the local trains which come through Nipton late at night after the station agent is off duty.

The applicants alleged that the principal business conducted at the Nipton station consists of the receipt for forwarding of carload shipments of ore. The evidence adduced at the hearing shows that the Union Pacific Railroad Company's portion of the Nipton station revenue has steadily declined since January 1955.

Exhibit No. 1 shows the Union Pacific's portion of all revenue from all services at the Nipton station, exclusive of passenger revenues, for the years 1955 and 1956, and the first six months of 1957. This exhibit is summarized as follows:

Year	FREIGHT				'Milk & 'Cream	'Total
	Forwarded		Received			
	'Carload	'L.C.L.	'Carload	'L.C.L.		
1955	\$7,759	\$16	\$5,568	\$602	\$62	\$14,007
1956	8,616	5	939	434	38	10,032
1957(6 mos.)	1,566	-	352	186	10	2,114

Monthly Average Railroad Portion of All Revenues:

1955	\$1,167
1956	863
1957(6 mos.)	352

Exhibit No. 2 shows the Union Pacific's portion of all revenues from all sources at the Nipton station with 50 percent of the carload freight charges apportioned to another Union Pacific station where the freight originated at or was destined to such other station, and exclusive of passenger revenues, for the years 1955 and 1956 and for the first six months of 1957.

Year	Freight				'Milk & 'Cream	'Total
	Forwarded		Received			
	'Local	'Other	'Local	'Other		
1955	\$ 149	\$7,477	\$737	\$4,696	\$62	\$13,121
1956	1,257	6,107	75	1,223	38	8,700
1957(6 mos.)	-	1,566	-	538	10	2,114

Monthly Average Railroad Portion of All Revenues:

1955	\$1,094
1956	806
1957(6 mos.)	352

Exhibit No. 4 shows the carload shipments of various commodities forwarded and received at the Nipton station during the years 1955 and 1956, and the first six months of 1957. The exhibit is summarized as follows:

CARLOADS FORWARDED								
Year	'Copper 'Ore	'Lead 'Ore	Lead 'Silver 'Ore	'Crude 'Ore	'Uranium 'Ore	'Rare 'Earth 'Conc.	'Rare 'Earth 'Oxide	Total
1955	-	9	-	1	1	5	2	18
1956	9	-	1	-	-	5	-	15
1957 (6 mos.)	-	-	-	-	-	1	-	1

CARLOADS RECEIVED								
Year	'Crushed 'Rock 'Samples	'Treated 'Poles	'Lignin 'Pitch	'Barb Wire 'and Steel 'Posts	'Fibre- 'board 'Pails	'Feed	'Anten- 'nas	Total
1955	-	5	1	1	1	-	4	12
1956	1	-	-	-	-	1	-	2
1957 (6 mos.)	-	3	-	-	-	-	-	3

The evidence shows that one additional carload shipment was received in July and one in August, 1957.

Exhibit No. 5 shows the less than carload shipments forwarded and received at Nipton during the years 1955 and 1956, and the first six months of 1957. This exhibit is summarized as follows:

Year	Number of Consignments		Total
	Forwarded	Received	
1955	5	102	107
1956	2	103	105
1957 (6 mos.)	-	49	49

Exhibit No. 3 shows the gross revenues from less than carload freight forwarded and received at the Nipton station for the years 1955 and 1956, and the first six months of 1957 together with express receipts. The entire freight revenue is attributed to the Nipton station, and 30 percent of the gross express receipts are credited to said station as its participation in said receipts. Exhibit No. 3 is summarized as follows:

<u>Year</u>	<u>Forwarded</u>	<u>Received</u>	<u>Milk & Cream</u>	<u>Express</u>	<u>Total</u>
1955	\$16.00	\$602	\$61.73	\$551.00	\$1,230.00
1956	5.00	434	38.13	212.96	690.09
1957(6 mos.)	-	186	10.42	44.83	241.25

In addition to the above items of revenue there are miscellaneous items of revenue including telegraph fees, C.O.D. fees, and demurrage fees, totaling \$30 to \$50 in each of the stated periods.

Exhibit No. 6 lists Union Pacific's out-of-pocket expenses at the Nipton station for the years 1955 and 1956, and the first six months of 1957. These expenses are summarized as follows:

<u>Year</u>	<u>Wages</u>	<u>Pay Roll Taxes</u>	<u>Fuel</u>	<u>water</u>	<u>Miscellaneous</u>	<u>Total</u>
1955	\$4,197.06	\$283.29	\$36.50	\$5.40	\$12.84	\$4,535.09
1956	4,276.68	323.36	79.16	5.40	15.00	4,699.60
1957 (6 mos.)	2,175.95	161.54	39.58	2.70	7.50	2,387.27

The applicant's witness testified that the agent's wages will go up 7 cents per hour on November 1, 1957, and that they will also be increased in 1958. The out-of-pocket expenses for 1957 are in excess of the total gross revenue for the first six months (See Exhibit No. 1).

Exhibit No. 7 shows that if the Nipton station is charged with its proportionate share of general railway overhead expenses, the operations of the station cost the railroad \$1,257 over revenues for the year 1955 and \$2,617 over revenues for the year 1956.

A representative of the Railway Express Agency, Incorporated, testified that his company's net revenues at Nipton for 1955 and 1956, and the first six months of 1957, were as follows:

<u>Year</u>	<u>Number of Shipments</u>		<u>Revenues</u>	
	<u>In</u>	<u>Out</u>	<u>In</u>	<u>Out</u>
1955	174	22	\$1,392.19	\$444.48
1956	135	32	503.65	206.23
1957(6 mos.)	30	7	110.18	39.25

These revenues are the amounts received by the agency over and above the payments to the railroad (Exhibit No. 3).

A witness for the railroad testified that the rail distance between Sloan, Nevada, and Kelso, California, is 79.5 miles and that this is not an unusual distance between agency stations on the Union Pacific Railroad. For example, he said, the distance between Pendleton and La Grande, Oregon, is 74.2 miles and there are 9 intermediate nonagency stations; that the distance between Burns and Juntura, Oregon, is 83.2 miles and there are 4 nonagency stations between; that the distance between Twin Falls, Idaho, and Wells,

Nevada, is 123.8 miles and there are 8 nonagency stations between; and that the distance between Kelso and Yermo, California, is 73 miles and there are several nonagency stations in between.

The railroad's District Traffic Superintendent testified that the purpose of the station agent is to assist shippers and receivers and to keep traffic records; that the Nipton area is principally a mining district and shipments outbound consist mainly of ore and rare earths, and inbound shipments at present consist of carloads of telephone poles and equipment for mining; that the telephone line is in and no further shipments of telephone poles are contemplated; that there will be no problem in handling carload lots if the agent is removed as a telephone connected to the Las Vegas agency station, to enable shippers to order cars, will be installed and an agent will notify consignees by mail when a carload shipment will arrive; that most inbound L.C.L. shipments are prepaid and the nearest agency station will advise the consignee by mail that a shipment is at the station; and that the station will be left unlocked if no person will take the responsibility for prepaid shipments. If shipments are not prepaid, the witness said, it will be necessary that the consignee pick up the shipment at the nearest agency station and, likewise, outgoing L.C.L. shipments will be delivered by the shipper to the nearest agency station.

The Board of Supervisors of San Bernardino County filed a protest to the abandonment (Exhibit No. 8) based on representations of the Molybdenum Corporation of America that there is substantial reason to believe that business in Nipton will increase in the near future although there is little business therein at the present time.

Testimony in support of the protest of the Board of Supervisors was given by the mill superintendent of the Molybdenum Corporation of America. He stated that the company has a mine and mill 14 miles from Nipton in which it has a 2½ million dollar investment; that in February, 1952, it commenced shipping ore by rail, 80 to 90 percent of which went to government stockpiles; that since 1952 it has paid ¼ million dollars for rail transportation; that when the mill is operating, the company ships 12 to 15 carloads of rare earths per month; that over 2 million tons of ore have been blocked out; that the government shipments have ceased but the company is developing markets and ships out quite a few L.C.L. shipments; that the shipments are valuable, being worth about \$1.00 per pound, and should not be left unguarded; and that the company has had two shipments this year. The witness also said that some of its shipments of 1 to 5 tons have been carried by truck to Los Angeles.

A representative of the Baker City Chamber of Commerce, which community is approximately 50 miles west of Nipton, testified that the Nipton station serves an area extending from Huber and Yucca Grove, about 35 miles west of Nipton, on the west, to Searchlight, Nevada, on the east, and from Baker, about 55 miles south of Nipton, to the Nevada border on the north. He stated that in this area there are 12 businesses on the highways and there are 2 to 8 families for each place of business. These are in addition to the mines and mills herein referred to and their personnel. He stated that the applicants are basing their request on 2½ years of experience and it was his opinion that this was not an adequate test period. The witness did not disagree with the applicants' evidence.

A representative of the Business Men's Association of Searchlight, Nevada, testified that he spent \$72,000 for a mill in Searchlight; that he has a \$4,200 per week payroll for 26 employees; that at present the mill produces 30 tons of ore concentrate per day and that this figure will be doubled in about 45 days; that Searchlight is 22 miles east of Nipton; that he is not now shipping but will be very soon; that it will cost him \$17 per ton to ship his ore concentrate out of Searchlight by truck and that the railroad agent in Las Vegas said it would cost him less than this to ship by rail; that he has and will have many incoming shipments; that he does not want his shipments dropped off at an unlocked station; that he wants Nipton as a shipping and receiving point; and that if the Nipton station is closed, the nearest agency station is Las Vegas which is about 57 miles from Searchlight. The witness said he plans on hauling the ore concentrates in his own truck from Searchlight to Nipton.

The evidence indicates that the present traffic in and out of Nipton may increase in the near future due to the efforts of the Molybdenum Corporation of America to enlarge its market.

A new mill has been established at Searchlight, Nevada, 22 miles east of Nipton and it may be inferred from the evidence that in the near future there reasonably may be expected outbound shipments totaling 10 or more carloads per month and, in addition, inbound shipments of supplies and materials.

This may well be, but to indulge such inference now is somewhat conjectural particularly in view of the fact that the record clearly demonstrates that under present conditions retaining

an agent at the Nipton station causes an out-of-pocket loss to the railroad. Upon careful consideration of the entire record, the Commission concludes that public convenience and necessity will not be adversely affected by authorizing the discontinuance of agency service at Nipton. The application will be granted. However, in order to afford the parties concerned an opportunity to show the effects, if any, of the establishment of the new mill, and of the efforts of the Molybdenum Corporation of America to enlarge its market, upon the traffic in and out of Nipton, the order which follows will provide that closing of the Nipton station agency shall not take place until approximately six months from the effective date of such order.

O R D E R

An application having been filed, a public hearing thereon having been held, the matter having been submitted and the Commission having made the foregoing findings and based upon said findings,

IT IS ORDERED:

1. That Union Pacific Railroad Company is authorized to discontinue agency service at Nipton, San Bernardino County, subject to the following conditions:
 - a. Applicant shall continue said station as a nonagency station.
 - b. Applicant shall give not less than ten days' notice to the public of the discontinuance of said agency service by posting a notice at said station.
 - c. Applicant shall provide storage under lock at said station for less-than-carload freight shipments and shall provide a key to said storage space to be kept at a convenient location nearby and shall maintain notice at such station advising patrons

where the key may be secured. In the event applicant is unable to obtain such location, it shall furnish a key to each of the following: Dr. Donald McCaskey, Molybdenum Corporation of America, Nipton Mercantile Co., and a representative of the Business Men's Association of Searchlight, Nevada.

- d. Applicant shall within thirty days thereafter notify this Commission in writing of the discontinuance of the agency service authorized herein and of the compliance with the conditions of this order.

2. That the authorization herein granted to discontinue agency service shall become effective June 2, 1958, unless there shall have been filed with the Commission, at least twenty days prior thereto, a petition setting forth facts indicating that the expected increase of traffic in and out of Nipton station has then occurred, and requesting a hearing thereon. In the event such petition is filed as herein provided the authorization hereinabove granted shall be stayed until a hearing is held and a further order issued.

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

Dated at San Francisco, California, this 5th day of December, 1957.

President

Commissioners