

ORIGINAL

Decision No. 56135

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of SOUTHERN PACIFIC COMPANY and of )  
RAILWAY EXPRESS AGENCY, INCORPORATED, )  
for authority to discontinue agency )  
at Durham, County of Butte, State of )  
California, and to maintain said )  
station as a non-agency. )

Application No. 39333

Harold S. Lentz, for Southern Pacific Company  
and Railway Express Agency, Incorporated,  
applicants.  
I. S. Wilson and H. D. Smith, for The Order  
of Railroad Telegraphers, protestant.  
Nick Ellena, for Chico Enterprize-Record,  
interested party.

O P I N I O N

Southern Pacific Company seeks an order from the Commission authorizing it to discontinue its agency at Durham, California, and in its stead substitute a Class "A" non-agency station. Railway Express Agency, Incorporated, seeks an order authorizing it to discontinue its Durham agency.

A public hearing was held at Durham on November 14, 1957 before Examiner Donald B. Jarvis. Due notice of the application and hearing was given to the public.

Southern Pacific contends that eliminating the agency would result in savings by the railroad and that the closing of the agency would in no way diminish the service now rendered to the public at Durham. It is the position of Railway Express that its Durham agency, which is a joint agency with that of Southern Pacific, has little business and produces a small amount of revenue; and that if the

Southern Pacific agency were eliminated the facts dictate the closing of the express agency. Protestant, Order of Railroad Telegraphers, takes the position that the elimination of the Southern Pacific and Railway Express agencies would result in inferior service to patrons in the Durham area; is not warranted under the facts; and that closing the agencies would result in a loss of patronage which would offset any anticipated savings.

Southern Pacific argues that if the Durham agency were closed the railroad would save approximately \$5,000 per year. Southern Pacific does not contend that the agency has been operating at a loss. Its evidence indicates yearly increases in gross revenues. No attempt was made to show net revenues. The gross revenue for 1955 was \$29,948. It was \$34,606 for 1956. During the first six months of 1957 the gross revenue was \$17,589. It was conceded by all parties that, because of the agricultural nature of the community, most of the shipments forwarded from Durham occur in the second half of the year. It would seem, therefore, that the gross revenue for 1957 will exceed that of 1956.

The evidence indicates that the handling of baggage and transactions involving passenger tickets are negligible at the Durham agency.

Southern Pacific introduced evidence that Durham is 6.1 rail miles and 6 road miles from Chico, and that if the agency were closed the Durham business would be handled at the Chico agency. Evidence was introduced tending to show that the actual time of pickup or delivering of freight would not be delayed by the proposed discontinuance of the agency. Other evidence was introduced to show that Durham and Chico are on the same telephone exchange and that there

would be no additional cost to most of the Durham patrons in transacting their business with the Chico agency. Southern Pacific offered to defray toll call expenses for Durham patrons in outlying areas not on the local telephone exchange. Expert witnesses testifying on behalf of Southern Pacific stated that, in their opinion, the facilities at the Chico agency were adequate to take on the additional Durham business and render the same calibre of service now given by the Durham agency.

Cross-examination of Southern Pacific witnesses elicited admissions tending to show that removal of the agency would in some ways cause a decline in service to Durham patrons. The decrease in service would, among other things, occur with regard to the spotting of cars and notification thereof to patrons, and the signing of bills of lading.

Several shippers testified in behalf of protestant. Each of these shippers expressed the opinion that if the Durham agency were removed the service to them would decline. They further expressed the opinion that if there was an appreciable decline in service they would ship on carriers other than Southern Pacific. Many of the shippers who testified stated that they were under instructions from various principals or brokers to forward signed bills of lading in the next outgoing mail and that removal of the Durham agency would cause a one day delay in forwarding said bills of lading.

Several shippers testified that on many occasions it is impossible for them to determine until late in the afternoon whether a car will be ready for shipment. It is now possible for such shippers to have the car sealed and bill of lading signed in Durham until the agency closes at 5 p.m., thereby transferring to Southern Pacific the duty of safeguarding the shipment. These shippers expressed the

opinion that they would not obtain the same service by dealing with the Chico agency.

Among those who testified for protestant was George J. Nisson, secretary-treasurer of Farmer's Chemical and Fertilizer Company. He stated the nature of that company's Durham operations, its need for the proper spotting of received railroad cars and the immediate notification thereof. The company received approximately 48 carload shipments in 1957.

Another witness for protestant was Allan J. Evans, a representative of the West Los Angeles Milling Company. He detailed the operations of that company since it took over the operation of a warehouse in Durham on July 1, 1956. The company's Durham warehouse ships approximately one-fourth of its outgoing carload shipments by Southern Pacific. It commenced shipping late in 1956 when 6 cars were forwarded via Southern Pacific. During the period of 1957 prior to the hearing approximately 16 cars were forwarded via Southern Pacific. Evans testified that if certain negotiations then in progress were successfully concluded his company would have a contract to ship green tomatoes from Durham. If this were so, the company would expect to forward from Durham approximately 200 additional railroad cars per year. Evans further testified that most of his company's shipments were collect ones and if the agency were removed there would be a delay in obtaining the signed bills of lading to be forwarded which would be injurious to his company.

It is obvious from the foregoing that there is conflicting evidence in this matter. Upon consideration of all the facts and circumstances of record we are of the opinion and hereby find and conclude that the closing of the Southern Pacific Durham agency would

be adverse to the public interest and that public convenience and necessity require the maintenance of said agency;

The relief sought by Railway Express herein was contingent upon permission being granted to Southern Pacific to close its Durham agency. Because of the disposition heretofore indicated of the Southern Pacific portion of the application, this point need not be further considered.

ORDER

Based upon the evidence of record and the findings and conclusions hereinbefore set forth, the application of Southern Pacific Company and Railway Express Agency, Incorporated, to discontinue their Durham agencies is denied.

Dated at San Francisco, California, this 21<sup>st</sup> day of January, 1958.

John E. Mitchell  
President  
W. G. Winters  
W. H. H. H.  
R. H. H.  
E. L. Fox  
Commissioners