

ORIGINAL

Decision No. 56584

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GILBOY CO., INC., a corporation,)
for an order authorizing increases)
and reductions in rates and changes)
in rules and regulations.)

Application No. 39787

Marvin Handler and Aaron H. Glickman, for
applicant.

Grant L. Malquist and Edward E. Tanner,
for the Commission's staff.

O P I N I O N

Applicant operates as a highway common carrier, a highway contract carrier and as a city carrier. As a highway common carrier it transports motion picture film and theatre supplies and accessories between points in northern and central California and between San Francisco and Los Angeles. As a contract carrier it transports food items and supplies for "snack bars" located in the theatres it serves, and a small amount of newspapers. By this application, filed February 5, 1958, it seeks authority to make a complete overhaul of its rate structure and governing rules for the highway common carrier operation. The sought changes result mostly in increases, but involve some reductions.

Public hearing was held before Examiner William E. Turpen on March 12 and 13, 1958, at San Francisco. Members of the Commission's staff assisted in developing the record by cross-examination of the witnesses.

The record shows that applicant corporation assumed operations January 1, 1957, having bought out the partners who previously operated this service.¹ The corporation has continued the operations substantially in the same manner as conducted by the predecessor partnership. Applicant's vice president testified that every effort possible has been made to effect economies in the operations and to put the equipment in first class shape. He stated that most of the newspaper traffic has been discontinued because it did not produce enough revenues to offset the cost of handling. The small amount of newspaper traffic still being handled, according to the witness, fits in with applicant's regular operation with very little additional expense.

The witness described his company's method of operation. The twelve film distributing agencies in San Francisco are located within a few blocks of applicant's terminal. Film shipments, marked as to theatre and city, are picked up in the afternoon by means of special hand trucks and sorted as to routes traversed at

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The transfer of the highway common carrier certificates was authorized by Decision No. 54301, dated December 18, 1956, in Application No. 38548.

the terminal. A "program" or combined shipment for each theatre usually consists of parts from two or more of the film distributing agencies. The loaded highway trucks are dispatched at night at such times as to reach the first theatre on each truck's route just following the finish of the last movie showing for the evening. The truck driver has keys to the theatres and deposits the shipments in the theatres and picks up the films to be returned to San Francisco. The returned films are then sorted at the terminal the next day and delivered to the proper film exchange. The transportation charges generally are billed to the theatre owners. Although the shipment to one theatre may be made up of film and supplies from several film distributing agencies, it is treated and billed as a single shipment.

Applicant's tariff publishing agent testified as to the present and proposed rates. He said that the present tariff is ambiguous and its provisions impossible to apply properly. The present rates are based on a specific charge per "service" which involves a round trip from San Francisco, all items being transported at the same time. Specific charges per "service" are named to all the points served by applicant, although some of the rates are on a weekly basis with provision for a specified number

of "services" during the week. The charges per "service" are not related to distance.²

The witness explained that applicant's proposed rates are generally equivalent to the class rates named in Minimum Rate Tariff No. 2, based on the class ratings set forth in the Western Classification and constructive mileages set forth in the Commission's Distance Table No. 4.³ The proposed rates, however, will not provide additional charges for the assembling of the parts of a shipment from the different film distributing agencies, or the delivery to different agencies on a return shipment. The proposed rates will apply for shipments in either direction, not for the round trip. Shipments will be subject to minimum charges of the same level as now named in Minimum Rate Tariff No. 2. Special provisions will be provided for circuit service, where film is picked up at one theatre after it has been shown and delivered to another theatre. The tariff agent stated that the circuit service would be limited to apply only between theatres on the same operating route.

² Following are examples of the present charges per "service". The points listed are arranged in order of increasing constructive mileage (from Distance Table No. 4) from San Francisco:

<u>City</u>	<u>Distance</u>	<u>Rate</u>
Sausalito	24.0	\$3.24
Santa Cruz	36.0	5.69
Davis	100.0	3.24
Sacramento	113.0	4.06
Marysville	148.0	5.28
Fresno	206.5	4.87
Red Bluff	219.5	5.69

³ The commodities involved are not subject to the minimum rates.

A public accountant employed by applicant presented exhibits and testified as to applicant's operating results. The actual expenses for 1957 were adjusted to give effect for the entire year of increased wage and related costs incurred during the year but not in effect during the entire year. In another exhibit the witness showed the estimated operating results adjusted to give effect to the proposed tariff revisions. These estimated operating results included a 15 percent diversion of the traffic that would be subject to the increase in rates. According to the witness, the diversion allowance includes some loss of traffic that has already been experienced as a result of one theatre chain having set up its own carrier service. A summary of these operating results are shown in the table which follows:

GILBOY CO., INC.

Actual and Estimated Operating Results
For 52 Weeks Ending December 28, 1957

	<u>Actual</u> <u>(1)</u>	<u>Adjusted</u> <u>(2)</u>	<u>Estimated</u> <u>(3)</u>
Revenue	\$410,012	\$410,012	\$425,750
Expenses	<u>411,736</u>	<u>421,325</u>	<u>411,000</u>
Net Income	(\$ 1,724)	(\$ 11,313)	\$ 14,750
Income Taxes*	<u>-</u>	<u>-</u>	<u>3,250</u>
Net After Taxes*	(\$ 1,724)	(\$ 11,313)	\$ 11,500
Operating Ratio			
After Taxes*	100.4%	102.8%	97.3%

() - Indicates Loss.

(1) Actual expenses per books.

(2) Adjusted for increased expenses.

(3) Adjusted for proposed increase and diversion of traffic.

* Calculated by staff.

From the above it is clear that Gilboy Co., Inc., does not receive sufficient revenues under its present rates to meet its full operating costs. The evidence of record also shows that under the proposed rates the revenues to be expected will provide only a small margin over the expected expenses.

Notices of the hearing were sent to the associations and theatre chains representing all of applicant's customers. No one appeared in opposition to the application.

It appears, and the Commission finds, that the sought increases in rates and revisions of applicant's tariff are justified. The application will be granted. Applicant seeks authority to depart from the long- and short-haul provisions of the Public Utilities Code and of the State Constitution where necessary. Applicant's proposed rates are on the same level as the minimum rates and as such rates are often computed over a route different from that traversed, such authority is at times necessary for common carriers to publish rates at the minimum rate level. Such deviation will be authorized. In view of the dire need of applicant for additional revenue, the order which follows will be made effective in ten days and applicant will be authorized to publish its revised rates and rules on not less than five days' notice to the Commission and to the public.

Applicant's proposed tariff names several points not included in its existing certificates. Counsel for applicant indicated that an application will shortly be filed to request a new

certificate of public convenience and necessity to reflect present operations.⁴ Applicant is cautioned that tariff filings made pursuant to the order herein must be in harmony with the operating rights now possessed. Applicant is further warned that operations conducted as a highway common carrier not in accordance with its certificate can subject it to penalties under the provisions of the Public Utilities Code.

O R D E R

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

IT IS ORDERED:

(1) That Gilboy Co., Inc., be and it is hereby authorized to publish and file, on not less than five days' notice to the Commission and to the public, revised rates, rules and regulations as proposed in Exhibit A attached to Application No. 39787, as amended by Exhibits Nos. 1, 2 and 3, filed in this proceeding, subject to the condition that application of "circuit service" shall be restricted to apply only between theatres on the same route as described.

(2) That, in establishing the above authorized rates, rules and regulations, applicant be and it is hereby authorized to depart from the provisions of Article XII, Section 21, of the

⁴ The application referred to, No. 39982, was filed April 8, 1958.

Constitution of the State of California, and Section 460 of the Public Utilities Code.

(3) That the authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California,
this 22nd day of April, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
Theodore J. Deener
Commissioners