

Decision No. 60031**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SOUTHERN PACIFIC COMPANY for)
authority to discontinue agency)
at Gustine, County of Merced,)
State of California, and to main-)
tain said station as a Class "A")
nonagency station.)

Application No. 41273

Randolph Karr and Harold S. Lentz, for applicant.
George G. Murry, for City of Gustine; George D.
Murphy, Jr., for County of Merced; protestants.
W. E. Fisher, for Order of Railroad Telegraphers;
E. A. McMillan, for State Legislative Committee,
Brotherhood of Railway Clerks; interested parties.

O P I N I O N

By this application Southern Pacific Company seeks authority to discontinue the agency at Gustine in Merced County and to maintain said station as a nonagency station.

Public hearing of the application was held before Examiner Carter R. Bishop at Gustine on December 1 and 2, 1959. With the filing of concurrent briefs the matter was taken under submission on March 1, 1960.

Six witnesses were presented in support of the application. Five were Southern Pacific employees. The sixth was a representative of Pacific Motor Trucking Company, a wholly owned subsidiary of applicant.

Gustine is located on that portion of applicant's Western Division known as the "West Side" line, which extends down the west side of the San Joaquin Valley from Tracy through Los Banos to Fresno. The agency stations nearest to Gustine are Newman, four miles to the north, and Los Banos, seventeen miles to the south. Gustine is a flag stop for the two passenger trains which operate

over the line daily, one in each direction.^{1/} The town is served by one local freight train, which operates five days per week out of Tracy. Several through freights also traverse the West Side line daily.

The station at Gustine is staffed by a full time agent-operator. Additionally, a clerk, based at Newman, divides his time approximately equally between the two agencies.^{2/} There are several industries at Gustine, most of which are served by spur track, and all of which utilize applicant's carload rail services in varying degrees. The total transportation revenues accruing to applicant on carload traffic originating and terminating at Gustine amounted to \$332,119 and \$234,088, for the 12-month periods ended May 31, 1958 and May 31, 1959, respectively. The total less-than-carload revenues for the same periods were \$2,297 and \$1,862, respectively.^{3/} Southern Pacific revenue from ticket sales amounted to \$1,441 and \$969 for the respective periods.

According to applicant's witnesses, there is not enough work for one employee at Gustine, while at the Newman agency there is more than sufficient work for one man but not enough for two. It is applicant's proposal, therefore, to close the agency at Gustine, and

1/ The trains, Nos. 57 and 58, constitute the "Owl", operating between Oakland and Los Angeles. They pass through Gustine at 3:45 a.m. and 12:28 a.m., respectively.

2/ During the peak perishable season the clerk at Newman spends part of his time at the nonagency station of Crows Landing, six miles north of Newman. During that period he does not spend any time at Gustine. At the same time of the year an additional clerk-telegrapher is assigned at Newman.

3/ According to the record, the total revenue accruing to applicant on less-than-carload shipments tendered or delivered at the Gustine station during the 12-month period ended May 31, 1959 amounted to only \$272. The rest of the traffic was handled in trucks of Pacific Motor Company and did not pass through the Gustine station.

arrange for the clerk at Newman to drive to Gustine twice daily, or oftener when necessary, to render such services as signing bills of lading, sealing cars, checking the yard, and starting the refrigeration machinery in mechanical refrigerator cars. As a part of the proposal, toll-free telephone service would be provided between applicant's patrons in Gustine and the station at Newman. Car orders would be placed with the Newman agent, and all other business which is now transacted with the Gustine agent would be handled with the former. Additionally, a base radio station would be set up in the Newman station and the traveling clerk's car would be equipped with a two-way radio. This arrangement, assertedly, would enable the Newman agent to contact the clerk at any time while the latter is going his rounds. The flexibility of the proposed arrangement, applicant's witnesses alleged, would provide the Gustine shippers with a quality of service equal, if not superior, to that which they now receive.

In recent years, the record indicates, there has been a substantial decline in the volume of work at both the Gustine and Newman agencies. All accounting and collection functions have been transferred from these, as well as from other stations in the area, to a regional office at Stockton.^{4/} That office revises the waybills, prepares freight bills, collects the transportation charges from shippers by mail, and does the bookkeeping for the stations in question. The practice under which the Newman freight clerk devotes half of his work day at Gustine dates back to the time when all of the foregoing functions were carried on at the local station. According to applicant's assistant division superintendent, the clerk is no

^{4/} Accounting and related functions for less-than-carload traffic were transferred from the Gustine agency to Stockton on June 1, 1958; the transfer as to carload traffic was accomplished on January 1, 1959.

longer needed at Gustine but continues to be sent there to familiarize himself with the outside work in the event the agency should be closed.

As hereinbefore noted, the amount of less-than-carload business handled through the station is negligible. All of applicant's less-than-carload traffic from and to Gustine is transported over the highways in trucks of Pacific Motor Trucking Company, a Southern Pacific subsidiary. Most of these shipments are picked up or delivered by the driver at the customers' premises. The driver is empowered to sign bills of lading, to collect charges, and to make damage inspections. Under the proposal herein there would be no change of service in the handling of pickup and delivery shipments.

With respect to passenger traffic, the record indicates that reservations and other trip details would be arranged by toll-free telephone calls to the Newman agent, delivery of tickets and payment therefor to be made by mail, if necessary. Also, as an alternative, passengers boarding a train at Gustine would be able to purchase their tickets from the train conductor.^{5/}

A transportation analyst employed by applicant estimated that the closing of the office at Gustine would result in annual net

^{5/} According to an exhibit of record, the agent at Gustine sold an average of .63 tickets per working day in the 12-month period ended May 31, 1959.

savings of at least \$4,645. In his estimate of expenses which would be chargeable to Gustine under the proposed plan, the analyst included clerical expense for 52 Saturdays,^{6/} telephone expense of calls to and from Newman, the traveling clerk's automobile mileage allowance, and an allowance for contingencies. He made no provision, however, for operating costs of the two-way mobile radio equipment and of the base radio station. Likewise, he made no provision for the depreciation expense of such equipment. In fact, none of applicant's witnesses was able to estimate the cost of setting up and operating the proposed radio communication system.

In developing the above estimate of net savings, the analyst excluded the wages of the Newman clerk, earned or to be earned at Gustine, because he understood that this expense item would be the same under the proposed plan of operation as it now is.

Granting of the application was opposed by the City of Gustine and by the County of Merced. Counsel for the City produced six carload shipper witnesses who testified regarding the effect which the closing of the Gustine agency would have on their respective businesses. The companies in question were two processors of cream and skim milk products, two growers of rose bushes, a tin can manufacturer and a public warehouseman.

These witnesses felt that they would not get the same quality of service from an agent located in another town, four miles away, as they now receive from the Gustine agent. Certain specific objections to the proposed closing were also raised. One witness was fearful

^{6/} Under the present arrangement it is necessary for the Gustine agent to be called out on Saturdays, subject to overtime wages, to protect Saturday car loadings. Under the proposal herein, the Newman clerk would perform this function, pending the scheduling of a relief clerk at the latter point.

that the proposed arrangement would result in demurrage charges on cars, the loading of which is completed too late in the day for the signing of the bills of lading. The record shows, however, that a phone call to the Newman agent when the cars are ready to be pulled out would be sufficient to avoid demurrage charges.

Other complaints were to the effect that the two-way radio arrangement will not work satisfactorily, that the present flexibility in switching operations of the local freight train will largely disappear,^{7/} and that the ability of shippers to secure an adequate supply of the special types of freight cars required by particular industries will greatly diminish if the Gustine agency is closed.^{8/} The warehouse manager was fearful that the closing of Gustine would encourage storers to prefer the facilities of warehousemen located in other communities where railroad agencies will continue to be maintained.

Counsel for the County of Merced introduced a resolution adopted by the Board of Supervisors of that county, in which the Board expressed the view that a station at Gustine was necessary for the convenience of the public and in which it opposed the closing of the agency.

The record indicates that Gustine and Newman are communities of approximately the same size. Counsel for the City of Gustine argued that applicant could accomplish the economies it seeks by dispensing with the traveling clerk and continuing the agents at both points. However, he felt that if applicant is determined to close one of the agencies, the station at Newman might just as reasonably

^{7/} The record shows that by contact with the local agent the local train crews have been held at Gustine until loading of cars has been completed. Also, through the offices of the agent "bad order" cars have, upon spotting at an industry, been immediately replaced with satisfactory cars.

^{8/} One witness testified that, on some occasions, only by standing over the Gustine agent while the latter placed the car orders by telephone with the carrier's car distributor at Stockton was said shipper able to get the freight cars he needed.

have been designated for that purpose. In this connection, comparative statistics of record indicate that during each of the last three years more carloads of freight have originated and terminated, in the aggregate, at Newman than at Gustine. These figures for the 12-month period ending November 30, 1959, reflect 913 cars at Gustine and 1,098 cars at Newman. As previously mentioned, the nonagency station of Crows Landing, located six miles north of Newman is serviced by the Newman clerk during the peak perishable season, normally the three autumn months. The total number of cars shipped and received at Crows Landing during the above-mentioned period was 826.^{9/} The statistics show that the Gustine traffic is more or less evenly distributed throughout the year, so that for seven or eight months of each year the monthly totals of Gustine exceed those of Newman.

Most of the objections to applicant's proposed plan of operation, in the event that the Gustine agency is closed, were satisfactorily overcome by the testimony of applicant's assistant division superintendent and its other witnesses. Those inconveniences which may be experienced under said plan have not been shown to be so great as to require the maintenance of an agent at Gustine. The practicality of the proposed two-way radio system has, according to the record, been demonstrated by the satisfactory employment of similar arrangements at other points on applicant's system. Although an estimate of the cost of operating and maintaining the proposed two-way radio system is not of record, the evidence is persuasive that the proposed closing of the Gustine Agency and servicing of the carload shippers at that point out of the Newman office will result in substantial savings.

^{9/} The above-stated figures are taken from the demurrage record books maintained at Gustine and Newman. Applicant does not vouch for their accuracy. The Mayor of Gustine testified that he had attempted to secure from applicant, in May, 1959, accurate revenue and carload statistics for the stations in question. It appears that through inadvertence, the request was not acknowledged. The record indicates that, for comparative purposes, the demurrage book statistics are reasonably accurate.

Since the record, moreover, indicates that there is more than enough work for an employee at Newman and that the Newman office is in a central location with respect to Crows Landing and Gustine, the proposal to close the Gustine agency, rather than Newman, appears logical.

Upon consideration of all the facts and circumstances of record, the Commission finds that public convenience and necessity do not require that Southern Pacific Company continue its agency at Gustine. The carrier proposes to maintain said station as a Class A nonagency station. The following order will so provide.

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 that:

1. Southern Pacific Company is authorized to discontinue its agency at Gustine, Merced County, subject to the following conditions:
 - a. Southern Pacific Company shall maintain said station in a Class A nonagency status.
 - b. Within ninety days after the effective date hereof and not less than ten days prior to the discontinuance of the agency at Gustine, applicant shall post a notice of such discontinuance at the station, and, within ninety days after the effective date hereof and on not less than ten days' notice to the Commission and to the public, applicant shall file in duplicate amendments to its tariffs showing the changes authorized herein and shall make reference in such notice and tariffs to this decision as authority for the changes. In no event shall the agent be removed pursuant to the authority hereinabove granted earlier than the effective date of the tariff filings required hereunder.

c. Within thirty days after discontinuance of service as herein authorized, applicant shall notify this Commission in writing thereof and of compliance with the above conditions.

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

Dated at San Francisco, California, this 3rd day of May, 1960

Carroll O. Page
 President

John E. Mitchell

Michael H. ...

E. L. ...

Leodore J. ...
 Commissioners