

Decision No. 62160**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RAILWAY EXPRESS AGENCY,  
INCORPORATED, to increase certain  
intrastate rates and charges for sur-  
face express service within the State  
of California.

Application No. 43106

Pillsbury, Madison & Sutro, Eugene A. Prince,  
Dudley A. Zinke and Robert E. Johnson,  
for applicant.

Hugh Cook, for Wine Institute, protestant.  
Timothy J. Cauty and John R. Laurie, for the  
Commission staff.

O P I N I O N

By this application, as amended, Railway Express Agency seeks authority to increase its less-than-carload express rates and charges applicable to California intrastate surface operations, by 20 cents per shipment.<sup>1/</sup> The Agency also proposes to increase by varying amounts its California intrastate class rates applicable to shipments of fruit, milk, cream and related products, newspapers, watercross and human remains.

According to the application the increase of 20 cents per shipment went into effect on interstate traffic throughout the country on January 5, 1961. Rate increases corresponding to the second group of increases mentioned above became effective on interstate traffic on January 10, 1961.

Public hearing of the application was held before Examiner Carter R. Bishop at San Francisco on March 14 and 15, 1961. Evidence

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<sup>1/</sup>The proposed 20-cent charge would not apply to shipments of milk, cream and related products, daily newspapers and human remains.

on behalf of applicant was offered through six witnesses. Two of these were applicant's regional marketing manager and its auditor of disbursements. The other four were officers or employees of Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, hereinafter designated as "Sante Fe."

Increases in California intrastate surface express rates and charges were last made pursuant to Decision No. 59856 of March 29, 1960, in Application No. 41607. Applicant's cost evidence which was presented in that proceeding was based on wage and other expense levels in effect November 1, 1958. Since that date, the record herein shows, applicant has experienced increases in employee wage rates, including extension of so-called fringe benefits. These increases have resulted in higher operating costs, in California as well as in other states.

Applicant's traffic manager explained the bases for the proposed rate changes and analyzed their effect on California traffic. With reference to the per-shipment increase of 20 cents, he stated that, since this charge is intended principally for the purpose of recovering applicant's increased costs of operation, an "across-the-board" rate increase of a flat amount per shipment appeared to be the fairest method of obtaining the needed revenue. He pointed out that the Agency's expenses, which cover the costs of collection, delivery and handling of traffic at terminals and the costs of billing and accounting, fluctuate largely with the number of shipments handled, rather than with the distances the shipments are transported.

The second group of rate increases, the traffic manager said, arise in connection with the plan, in the interest of tariff simplification, to complete the cancellation of certain class rate tariffs which have been largely superseded by the Agency's Tariff No.

18-C, Cal. P.U.C. No. 256. In this process the class rates on a small

group of commodities would be modestly increased. He pointed out, however, that these latter increases would have little or no effect on California intrastate traffic, either because lower intrastate commodity rates are now in effect or because of the extremely limited application of the class rates in question.<sup>2/</sup> The purposes of this group of rate increases, the record shows, is to bring the intrastate tariffs in conformity with the interstate publication.

The traffic manager further testified that the same conditions which justified increases in interstate express rates and charges prevailed with respect to California intrastate rates. No distinction, he stated, is made in the handling of interstate and intrastate shipments. The two classes of traffic are handled in the same motor vehicles, pass through the same terminals, are handled by the same Agency employees and are transported in the same baggage cars. He asserted that the proposed 20-cent surcharge is necessary in order that the California traffic may bear its fair share of the cost of express operations. Based on the carrier's experience with interstate traffic, the witness was of the opinion that the surcharge would result in very little, if any, diversion of California intrastate traffic to other means of transportation.

The Agency's auditor of disbursements presented an exhibit in which he had developed estimated revenues and expenses under present and proposed rates, based on the traffic handled during the 12-month period ended October 31, 1960. According to this exhibit, applicant's California intrastate revenues for the period in question were \$1,999,778. After adjustment to give effect to the 1960 rate increase, the revenues for the same period under present and proposed rates were estimated at \$2,177,317 and \$2,286,784,

<sup>2/</sup>

The commodities to which reference is made are: milk, cream and related products (lower commodity rates in effect), certain classes of newspapers shipped subsequent to date of issue, and human remains.

respectively. The additional revenue to be received under the proposed increased rates was estimated to be \$109,467.

As has been explained in prior decisions involving Railway Express Agency, under its contract with the underlying rail lines the balance of revenues remaining after payment of the Agency's operating expenses is remitted to the railroads for the services which they perform in transporting express shipments. According to the record, this basis of compensating the railroads will be replaced, effective July 1, 1961, by an arrangement under which the rail lines will be paid on a car-foot mile basis. At the time of hearing in this matter, the car-foot mile rate had not been agreed upon.<sup>3/</sup>

After deducting estimated operating expenses for the rate year, adjusted to wage and other cost levels as of October 31, 1960,<sup>4/</sup> the amounts available for distribution to the rail carriers, the Agency's auditor found, would be \$376,852 under a continuation of present rates and \$486,319 under the proposed rates. According to the auditor's exhibit, of the gross revenues anticipated under the sought rates, 21 percent would be available to the railroads to meet their costs of the services involved. According to the auditor's study, however, 53 percent of such revenues would be required to reimburse the rail carriers for their costs only, and this figure would be 67 percent were provision also to be made for a reasonable return on the facilities of the rail carriers which are used in the transportation of express. This witness estimated that, even under the

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<sup>3/</sup> The new basis of compensation for the services of the rail lines is the result of an agreement between the Agency and its underlying carriers which became effective October 1, 1959. Under that agreement the old basis of compensation is to continue in effect through June 30, 1961.

<sup>4/</sup> Applicant's expense estimates do not give effect to the following items: a wage adjustment, effective February 1, 1961, which increased the health and welfare benefits to employees; increases in salaries of executives and administrative employees, and payroll taxes attributable to such increases.

increased rates herein sought, applicant's California intrastate revenues would, for the rate year, be deficient by more than a million dollars in meeting the rail costs and providing a reasonable profit.

Rail representatives appearing on behalf of applicant introduced exhibits to show that, under present rates, applicant's payments to the railroads for express privileges are insufficient to return even the out-of-pocket costs which the latter carriers incur in the transportation of express shipments. A transportation analyst of Southern Pacific Company introduced the results of a study of revenues and out-of-pocket expenses applicable to a year's operations of 24 passenger trains which are said to move the bulk of California intrastate express shipments transported over that road. The statistician of the Santa Fe presented the results of a similar study embracing six months' operations of 13 passenger trains within California.

According to the Southern Pacific exhibit, estimated out-of-pocket expenses incurred by that road in transporting express shipments on the 24 intrastate trains exceeded revenues (express privilege payments) by \$256,056 on an annual basis. Revenues and expenses were those resulting during the 12-month period ended October 31, 1960. The record shows that eight of the 24 trains were discontinued at different times during 1960.<sup>5/</sup> If Southern Pacific express revenues and expenses relating to these trains are eliminated, the estimated out-of-pocket deficit figure for the express traffic handled by the remaining 16 trains is \$105,774. It appears, however, that some of the express traffic formerly handled by the discontinued trains may now be carried on some of the 16 trains which are still operating. The Santa Fe figures reflected an estimated out-of-pocket loss for

<sup>5/</sup> The trains in question were Nos. 59 and 60, operating between Los Angeles and Sacramento, Nos. 73, 74, 250 and 255, between San Jose and Oakland, and Nos. 247 and 248, between Oakland and Sacramento.

the road of \$167,396, in the handling of express traffic on the 13 intrastate trains included in its study. These figures also were for the 12-month period ended October 31, 1960.

The studies of both rail witnesses reflected the revenues and expenses involved in transporting interstate, as well as intrastate, express shipments on the trains in question. According to the witnesses, it would be impractical to segregate the intrastate expenses as between the two classes of shipments. These and other rail witnesses testified that the costs would be the same for both intrastate and interstate express shipments transported on the same intrastate train, since the two categories are intermingled and no distinction is made between them by the rail carriers performing the underlying transportation service.

The record discloses that express privilege payments received by Southern Pacific and Santa Fe comprise 36 percent and 19 percent, respectively, of the total of such payments by applicant to all railroads in the Mountain-Pacific group.

Wide notification of the hearing in this matter was given to persons and organizations believed to be interested. One protest against the sought rate increase was made, namely, that of Wine Institute, a non-profit organization of California wine producers. The director of the Institute's transportation division stated that the organization's protest was directed against the application of the proposed increase of 20 cents per shipment to shipments of wine samples, which move between wineries and to commercial laboratories. Most of these, he said, can move under the present express minimum charge of \$2.36, for distances up to 300 miles. He asserted that this charge is too high now and that the proposed increase of 20 cents would place an additional burden on the wine industry.<sup>6/</sup> He pointed

<sup>6/</sup> According to the director, applicant has priced itself out of the business for the transportation of other small shipments of wine, namely, the two-bottle gift package, and one, or two, case commercial deliveries. The record does not disclose by what means this latter traffic is transported.

out that the transportation of alcoholic or vinous beverages in the mails is prohibited by law, and stated that the wine producers are, therefore, compelled to use applicant's service for the movement of wine samples. Testimony offered by applicant's traffic manager indicated that the number of wine sample shipments involved is relatively small and that loss and damage payments in connection with such shipments are considerably higher than the average for all shipments.

Representatives of the Commission's Transportation Division assisted in the development of the record.

#### Conclusions

Railway Express Agency has, for some years past, experienced a continuing downward trend in the volume of traffic handled. According to the evidence of record, it has instituted a comprehensive program for the modernization of its operations and for increased efficiency and economy. The program includes, among other things, the construction of new terminals, the purchase of new highway equipment, the installation of conveyors in terminals and of two-way radios for truck dispatch, and the consolidation of offices and of operating divisions. A large part of this program has already been effected.

Another aspect of applicant's effort to regain traffic relates to the general review of its entire rate structure, in which the carrier is now engaged. The purpose of the review is to simplify the structure, and to adapt it to current competitive conditions and changing economic patterns in the transportation industry. The traffic manager testified that a great deal of effort and money has been expended in the review during the past year, that it has proved to be a very complicated matter, and that some progress has been made in the above-indicated directions.

The evidence shows that applicant's present rates do not return the costs of the service and that even the proposed rates will not return all the costs. The sought increase of 20 cents per shipment represents applicant's approximation of what is necessary merely to offset the increases in operating costs which the carrier has sustained since the last adjustment in its California intrastate rates. The record does not show estimates of operating results for applicant under the new basis of compensation for the railroads which will take effect on July 1, 1961, since the car-foot mile rate to be used under that basis had not been determined when this matter was heard. The record shows, however, that said rate is intended to cover the out-of-pocket expenses which will be incurred by the rail lines in the performance of their contract services for the Agency. Since the record indicates that the express privilege payments received by the railroads from applicant fall far short of compensating them for said expenses, in California intrastate service as in other traffic, it appears all the more urgent, looking to the more stringent arrangement to become effective on July 1, 1961, that applicant be enabled to improve its financial position through the rate increase herein sought. Upon careful consideration of the record we hereby find that the sought rate increase of 20 cents per shipment and the other proposed rate adjustments have been justified. With reference to the protest of the Wine Institute, we are of the opinion that the proposed 20-cent increase, as applied to small shipments of wine will not be unreasonable. The application will be granted.

Applicant seeks relief from the long-and-short haul provisions of Article XII, Section 21, of the Constitution of the State of California and of Section 460 of the Public Utilities Code in order to establish the sought increases in connection with certain rates which are non-intermediate in application. Applicant also seeks



relief from the provisions of Tariff Circular No. 2 to the extent necessary to publish the increased rates and charges in the same form as tariffs filed with the Interstate Commerce Commission. These requests appear reasonable. They will be granted. Authority is sought also to make the proposed rate, tariff and classification adjustments effective on less-than-statutory notice. In view of the demonstrated need for additional revenues to offset present losses, this request also will be granted.

O R D E R

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

IT IS ORDERED that:

1. Railway Express Agency, Incorporated, be and it is hereby authorized to establish the adjustments in express rates and charges, as proposed in the application, as amended, filed in this proceeding. The tariff publications authorized to be made as a result of this order may be filed not earlier than the effective date hereof, and may be made effective on not less than five days' notice to the Commission and to the public.

2. Applicant be and it is hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California and of Section 460 of the Public Utilities Code to the extent necessary to adjust long-and-short haul departures now maintained in applicant's tariffs under outstanding authorizations, and to depart from the terms and rules of Tariff Circular No. 2 of this Commission to the extent necessary to accomplish publication of the rate increases herein authorized in the same form as authorized by the Interstate Commerce Commission on interstate traffic. Applicant shall, thereafter, publish in its tariffs the specific increased rates and charges authorized herein not later than one hundred and

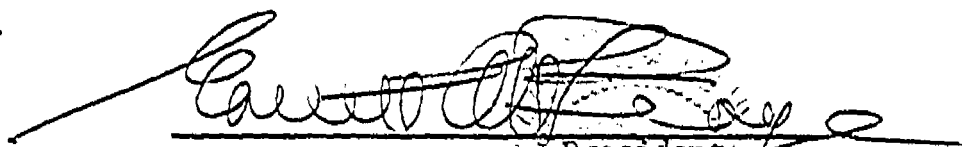
eighty days after the effective date or dates of the rates and charges.

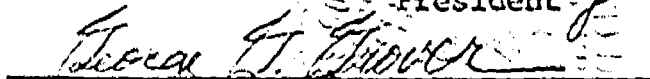
3. The authority herein granted is subject to the express condition that applicant will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that the opinion and order herein constitutes a finding of fact of the reasonableness of any particular rate or charge, and that the filing of rates and charges pursuant to the authority herein granted shall be construed as consent to this condition.

4. The authority herein granted shall expire unless exercised within 120 days after the effective date hereof.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of June, 1961.

  
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President

  
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George H. Hoover

  
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Frederick B. Holshoff

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Commissioners

C. Lyn Fox  
Commissioner..... Peter E. Mitchell, being  
necessarily absent, did not participate  
in the disposition of this proceeding.