

ORIGINALDecision No. 64473

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 Elmhurst,
 County of Alameda, State of California,
 and to maintain said station as a
 Class A nonagency station. } Application No. 44549

Randolph Karr, for applicant.
Carl R. Pressly and Hugh D. Smith, for the Order
 of Railroad Telegraphers, protestants.
Leonard M. Wickliffe, for the Railroad Brotherhoods'
 California Legislative Association, interested
 party.
Edward McLane and H. P. Cochran, for the Commission
 staff.

O P I N I O N

By application filed June 15, 1962, Southern Pacific Company requests an order authorizing discontinuance of its agency at Elmhurst, and permission to continue it as a Class A nonagency station.

It is alleged that the business handled and the type of business conducted at said station do not warrant the continued maintenance of an agency at said station, and that the public can be as adequately and conveniently served from other agencies.

Public hearing was held in San Francisco on August 14, 1962, before Examiner Rowe, at which time evidence, both oral and documentary, was adduced and after oral argument the matter was submitted for decision.

According to the uncontradicted evidence the agent at Elmhurst has performed no service as an agent for the public for

several years. Agency functions have been performed mostly by industry clerks from the Oakland office. Until May 27, of this year, the agent and two other employees have been retained at this station to handle train orders during the twenty-four hours of each day. At that time applicant installed Central Traffic Control and so removed all employees from the station except the agent.

Applicant included as an item of savings in the event the agency was discontinued the full amount of the present agent's salary of \$5,579 a year. Counsel for applicant in this connection advised the Commission that the incumbent agent had notified applicant that he intended to retire in October, 1962. The representative of the Railroad Brotherhoods attacked the presentation of the agent's full salary as an accurate measure of savings on the ground that the incumbent did not have to retire until he was physically unable to perform his duties and he offered as exhibits 6 and 7 for identification, respectively, a mediation agreement and pertinent sections of the Washington Severance Agreement. Applicant strenuously objected to the receipt in evidence of these documents. These agreements provide for the continued employment of an employee whose position has been abolished. Under the provisions of these agreements such an employee, if he has seniority, may bump or replace a junior employee or, in any event if he qualifies, retain employment on the extra board for which he is guaranteed pay for 40 hours a week, whether he works or not, so long as he holds himself available. These exhibits were not received in evidence by the Examiner. In the opinion of the Commission, this was error and the Commission will accept the exhibits in evidence solely for the purpose of the point made by

the Brotherhoods, that the full amount of the station agent's salary is not necessarily a savings to applicant in the event that this position is abolished. As this is a subsidiary point not determinative of this case, it will not prejudice applicant in these circumstances if the matter is not reopened to permit cross-examination on the exhibits. It was applicant's strenuous and irrelevant objections to these exhibits which kept them from being received at the hearing and thus foreclosed applicant from cross-examination thereon, which latter would appear to have been proper procedure for applicant to follow.

In his closing argument the representative of the Railroad Brotherhoods' California Legislative Association argued that applicant improperly stripped this agency of all functions before requesting authorization for the removal of the agent. The answer to this contention advanced by applicant was that the performance of these functions from a central point is better designed to satisfy the needs of its customers, who themselves prefer being served by experts who can do a better job than the isolated agent. The shipping public has indicated no disagreement with this position by protesting the abolishing of the agency position, although adequately notified of the application and hearing.

The Commission finds that public convenience and necessity no longer require the maintenance by applicant of an agency at Elmhurst.

O R D E R

A public hearing having been held and based upon the evidence adduced,

IT IS ORDERED that:

1. Southern Pacific Company is authorized to discontinue its agency at Elmhurst, Alameda County, subject to the following conditions:

- (a) Applicant shall maintain said station in a Class A nonagency status for the receipt or delivery of freight in any quantity, carloads or less.
- (b) Within one hundred twenty days after the effective date hereof and on not less than ten days prior to the discontinuance of the agency at Elmhurst, applicant shall post a notice of such discontinuance at the station and, within one hundred twenty days after the effective date hereof and on not less than ten days' notice to the public and to the Commission applicant shall file in duplicate amendments to their tariffs showing the change 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, in writing, notify this Commission thereof and of compliance with the above conditions.

2. The request for a proposed report of the presiding examiner appears to be inappropriate in this proceeding and is denied.

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

Dated at San Francisco, California, this 30th day of OCTOBER, 1962.

George J. Grover
President

W. J. [Signature]

[Signature]

Frederick E. Holhoff
Commissioners