

Decision No. 70130**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 THE ATCHISON, TOPEKA AND SANTA FE
 RAILWAY COMPANY, a corporation, and
 RAILWAY EXPRESS AGENCY, INC., a
 corporation, for authority to dis-
 continue agency service at their
 station at Planada, County of Merced,
 State of California, and to remove
 their station building therefrom.

Application No. 47590
 (Filed May 17, 1965)

John J. Balluff and Henry M. Moffat,
 for applicants.
T. N. Petersen, for Reiman Mills, Inc., Planada
 Packers, C. E. Spurlock, Theodore Sowder and
 William Wilson; Ralph O. Norton, for
 Transportation-Communication Employees Union
 protestants.
Kenneth G. Soderlund, for the Commission staff.

O P I N I O N

A duly noticed public hearing was held before Examiner Power on July 29 and 30, 1965 at Merced and the matter was submitted subject to the filing of briefs on one certain point. Applicants were to file an opening brief, protestants an answering brief, and applicants a reply brief. By letter received at the Commission's office on September 24, 1965, applicants waived their right to file a reply brief and the matter is ready for decision as of that date.

Planada is located 8.8 rail miles eastward of the Merced station. Applicants seek to terminate their agencies at this place and Santa Fe seeks authority to remove its station building. If the application is granted Santa Fe will continue Planada as a nonagency station but R.E.A. will cease service there.

R.E.A. service will, of course, continue to be available in Merced.

An R.E.A. witness testified that the amount of business transacted by his company at Planada would not justify the training of a merchant agent, assuming one could be found. The total amount of Planada revenue received by this company is not in evidence. However, Santa Fe's proportion of express revenue appears in Exhibit No. 13. In 1963 it was \$103.17; in 1964, \$137.43.

Santa Fe introduced several exhibits, four of which analyzed the amount of work in each category per day which was performed by the agent. A work year of 254 days was used. Exhibits Nos. 5 through 8 contain 12 categories, of which 7 are omitted because there was no work at all done in them. The omitted categories are: Western Union messages, pieces of baggage, passenger tickets, sacks of mail, cans of milk, depot deliveries and damage inspection reports. The other five categories with annual totals and daily averages given, are:

	1963		1964		1965 (1st 6 Mos.)	
	Total	Daily Average	Total	Daily Average	Total	Daily Average
No. of Waybills	26	.1	24	.09	11	.09
No. of Freight bills	70	.3	58	.2	17	.14
Carload traffic (No. of cars)	75	.3	58	.2	19	.15
Less carload traffic (No. of shipments)	13	.05	9	.04	3	.02
Car orders	12	.05	6	.02	0	.0

It is not necessary to comment on the facts shown in the tabulation.

The Santa Fe proposes to have its personnel, five in number, at Merced, perform the agency services at Planada. This agency is now covering the stations at Winton, Pritchard, Castle

Air Force Base and Tuttle westward of Merced. In Application No. 47589 it proposes to place its Le Grand Station, eastward of both Planada and Merced, under the Merced agency. This would add up to seven stations to be covered by the staff at Merced.

Planada businessmen testified in opposition to the application. A Planada canner testified that he uses both Santa Fe and R.E.A. (the latter for samples). It would be an inconvenience to send these the additional distance to Merced. Another witness is proprietor of a store; a third operates a feed mill at Planada; a fourth has a lumber yard; and a fifth manages a fig cooperative and is county supervisor for the district. The Board of Supervisors transmitted to the Commission a resolution protesting the reduction of the Le Grand and Planada stations to nonagency status.

An attorney for protestants offered in evidence a number of title documents relating to the acquisition by Santa Fe of its property in Planada. Santa Fe acquired its property in three deeds (to the San Francisco and San Joaquin Valley Railroad Company, its predecessor) all dated in 1896. Copies of these were offered in evidence as Exhibits Nos. 20 through 22. Consideration was nominal in all of them. From Exhibit No. 23, an agreement between a grantor and the San Francisco and San Joaquin Valley Railroad Company, it appears that the object of the grantors was to develop a town. Presumably, the presence of a railroad and its station would advance this project.

Applicants objected to admission of all of the title exhibits. The Examiner overruled the objections on the ground that an attack on Santa Fe's title to its right of way might cause expense and the applicants moved to strike. It was this motion which was the subject of the briefs referred to in the first paragraph of this opinion.

It appears to the Commission that the objection of Santa Fe to this evidence goes rather to the weight than the admissibility of it. It was pertinent to show that closing of the station might impose an expense on the railroad.

It is clear that there is not enough work to keep an agent busy even half time.

It is true that the Railway will, if the station is closed, still be able to render an adequate service at Planada. It must be borne in mind that the duty of a common carrier is to carry property promptly and safely. It does not include the necessity of rendering the service by any specific method or through certain specific classifications of employees.

The Commission finds that:

1. Public convenience and necessity no longer require the maintenance by The Atchison, Topeka and Santa Fe Railway Company and Railway Express Agency, Inc. of agencies at Planada, Merced County.

2. After the termination of the agency at Planada, the station building there will not be needed in the public service.

The Commission concludes that the application should be granted. The motion to strike is denied.

O R D E R

IT IS ORDERED that:

1. The Atchison, Topeka and Santa Fe Railway Company and Railway Express Agency, Inc. are authorized to discontinue their agencies at Planada, Merced County, subject to the following conditions:

- (a) The Atchison, Topeka and Santa Fe Railway Company shall maintain said station in a nonagency status for the receipt or delivery of freight in any quantity, carload or less.
- (b) Within one hundred twenty days after the effective date hereof and not less than ten days prior to the discontinuance of the agencies at Planada, Merced County, applicants shall each 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 Commission and to the public, applicants each 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. After the authority granted by paragraph 1 of this order has been exercised and the conditions thereof have been complied

with, The Atchison, Topeka and Santa Fe Railway Company may
remove its station building at Planada, Merced County.

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

Dated at San Francisco, California, this 21st
day of DECEMBER, 1965.

Fredrick B. Halaloff
President

John E. Northill

George T. Hoover

Augustus

William L. Burnett
Commissioners