

ORIGINAL

Decision No. 74338

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, for
authority to discontinue agency
service at its station at Dinuba,
County of Tulare, State of California.

Application No. 49981
(Filed January 30, 1968)

Donald W. Ricketts, for The Atchison,
Topeka and Santa Fe Railway Company,
applicant.
Ralph O. Norton, for the Transportation
Communication Employees' Union,
protestant.
M. E. Getchel, for the Commission's staff.

O P I N I O N

Applicant, The Atchison, Topeka and Santa Fe Railway Company, seeks authority to discontinue agency service at its station at Dinuba. It alleges that said service is no longer required by public convenience and necessity.

Public hearing on the application was held before Examiner Abernathy at Dinuba on March 22, 1968. Evidence in support of the application was presented by four witnesses for applicant: a special accountant, the superintendent of applicant's Valley Division (which extends from Richmond to Barstow), a transportation inspector, and the assistant traffic manager of Santa Fe Transportation Company, a motor carrier affiliate of applicant. Evidence in opposition to the application was presented by a representative of a principal user of the agency

services in issue, and by the manager of the Dinuba Chamber of Commerce. A representative of the Transportation and Communication Employees' Union and a member of the Commission's staff participated in the development of the record through examination of the witnesses.

The special accountant submitted data purporting to show that the operation of the agency at Dinuba is resulting in financial losses to applicant. He reported that the revenues, expenses and net operating results of the agency for the year 1966 and for the first nine months of 1967 were as follows:

	<u>1966</u>	<u>January through September 1967</u>
Revenues	\$110,927	\$49,866
Expenses	<u>107,154</u>	<u>50,237</u>
Net Profit or (Loss)	\$ 3,773	(\$ 371)

The accountant explained that the revenue figures represent revenues received from the sale of passenger tickets at Dinuba plus one-half of the revenues received from freight traffic originating at or received at Dinuba during the periods indicated. The proportion of one-half was used in the development of the freight revenues on the theory that in the shipment of freight two stations -- the origin station and the destination station -- are involved, and that in the division of the revenues each station should be credited with one-half of the receipts per shipment. The expense figures were developed by the special accountant on the basis of

actual expenditures for the operation of the Dinuba agency plus a prorata of applicant's systemwide expenses (other than station) at the ratio that said expenses bear to applicant's total systemwide railway operating revenues.

The division superintendent testified mainly concerning the manner in which the Dinuba area would be served by applicant in the event that the Dinuba agency is discontinued as sought. He said that the closure of the agency would not leave Dinuba without agency service in that applicant maintains agencies at Reedley and Cutler and that these agencies would be available to applicant's patrons in the Dinuba area.¹ However, the principal agency services for Dinuba would be provided by or through applicant's agency at Fresno.² Shippers' orders for freight cars would be placed there. That agency would provide billing and claims services, and it would dispatch car inspectors from nearby Calwa.

The division superintendent submitted an exhibit showing that applicant now provides toll-free telephone service between its Fresno office and the Dinuba area for the receipt of car orders and for the dispensing of freight and passenger information, particularly during other than the hours when the Dinuba agency is normally open. In this respect the superintendent stated that

¹The distance from Dinuba to Reedley is about 7 miles; from Dinuba to Cutler the distance is about 8 miles.

²Fresno is about 30 miles distant from Dinuba.

the Fresno agency is open almost continuously, seven days a week, whereas the Dinuba agency is open only from 8:00 A.M. to 5:00 P.M. (lunch hour excepted), Mondays through Fridays. He asserted that the greater availability of service through the Fresno agency would result in better service for Dinuba shippers than that which they now receive.

The transportation inspector who was called as a witness by applicant reported on a time study which he had made of the Dinuba agent's activities during a two-day period, March 15 and 18, 1968. According to this report, the agent spent only 37 minutes during the eight-hour day on March 15, 1968, in activities associated with his employment. The time similarly spent on March 18, 1968 was 41 minutes.

The assistant traffic manager of the Santa Fe Transportation Company described the operations of that company as consisting of the transportation of less-truckload shipments of freight for the public generally and the transportation of less-carload shipments of freight for The Atchison, Topeka and Santa Fe Railway Company. He reported that during 1967 the Santa Fe Transportation Company transported 31 shipments of freight, aggregating 4,752 pounds, from or to Dinuba. He said that Fresno is the base of the company's operations in the Dinuba area, and that said operations in and about Dinuba are conducted independently of applicant's Dinuba agency except that the agency is used as a depository for nondelivered shipments for Dinuba consignees. He said that in the event the agency is closed, such nondelivered shipments would be left at applicant's agency at Reedley.

The discontinuance of the agency service at Dinuba was opposed by a major shipper of fruits and vegetables from Dinuba and by the Dinuba Chamber of Commerce. A representative of the shipper took issue with applicant's assertions that the quality of the service which would be provided after discontinuance of the agency would be as good or better than that which is now provided. She praised the present service, and said that it can hardly be improved. She particularly emphasized the value of the agent's services in inspecting and expediting replacements of defective railroad cars which applicant occasionally supplies in lieu of good-order cars for shipping purposes. She said that in the marketing of fresh fruits and vegetables good transportation service is particularly important because of the perishable nature of the commodities involved and because of the necessity of meeting deadlines imposed by rapidly fluctuating marketing conditions.

The manager of the Dinuba Chamber of Commerce also stressed that the quality of applicant's service should be an important consideration in determining whether the sought discontinuance should be authorized. He testified that various members of the Dinuba Chamber of Commerce who would be mainly affected by the discontinuance had considered the matter, and that the consensus of those members was that the discontinuance should be opposed unless the maintenance of applicant's present quality of service were guaranteed.

Discussion, Findings and Conclusions

As stated at the outset of this opinion, applicant seeks to discontinue its agency service at Dinuba on the grounds that the service is no longer required by public convenience and necessity. It is evident from the record that the sense in which this allegation is made is that the public need for agency service at Dinuba can be equally met by other of applicant's agencies and that the discontinuance of the Dinuba agency should be permitted in order that applicant may avail itself of such economies as would result therefrom.

The principal economies which applicant would realize lie in the group of expenses which are designated as "station expenses". These expenses consist mainly of the agent's salary. They amounted to \$8,433 during 1966 and \$5,946 during the first nine months of 1967. Although applicant submitted figures through its special accountant to show that the operation of the Dinuba agency was resulting in financial losses, it is noted that the accountant's figures actually show a profit of \$3,773 for the year 1966 and a loss of but \$371 for the first nine months of 1967. Nevertheless, for the purposes of this proceeding no credence should be given to either the profit or loss figures which the accountant presented. They were developed for the most part on data stemming from applicant's system-wide operations, and are too remote from the operations at Dinuba to have any value as a measure of Dinuba operating results.

Applicant did not undertake to present a specific estimate as to what savings in station expense could be accomplished

if the Dinuba agency were discontinued. The transfer of the Dinuba agency work to other of applicant's agencies would, of course, eliminate the station expenses insofar as Dinuba is concerned. However, it should not be presumed that the work would be performed by the other agencies without cost to applicant.

To the extent that reductions in the station expenses would be actually achieved, it appears that the largest reductions would be attained only during the first six months of the year when applicant transports relatively few carload shipments to or from the Dinuba area.³ On the basis of the time study which the transportation inspector submitted to show the agent's work performance on March 15 and 18, 1968, it may be concluded that the agent's duties during the early months of the year could be transferred to the other agencies without materially increasing the work load of said agencies.

On the other hand there is nothing on the record to support a conclusion that the work of the Dinuba agent during the summer and fall months could be transferred to applicant's Fresno agency and to the Reedley and Cutler agencies without proportionate increases in the operating costs of those agencies. The transfer

³ Data which applicant presented relative to the carload shipments which it transports to or from the Dinuba area indicate that only about 20 percent of said shipments move during the first half of the year. The data also indicate that about 95 percent of the shipments are transported from Dinuba. The high percentage (80 percent) of shipments which are transported during the second half of the year and the high percentage of outbound shipments reflect the fact that the Dinuba area primarily produces and ships agricultural commodities which move to market in the summer and fall seasons as the crops mature.

of some of the duties, it appears, would result in greater costs to applicant than those which applicant incurs from the performance of the same services by the Dinuba agent. For example, car inspection costs would be increased, since the car inspection work would be performed from Calwa, almost 30 miles distant from Dinuba. Consequently, more travel time and travel costs would be incurred than is now the case when the inspections are made locally by the Dinuba agent.

In conclusion, considering applicant's total presentation relative to the financial aspects of the Dinuba agency operations, we are of the opinion that applicant has shown only that the discontinuance of the station would enable applicant to effect some reduction in its station expenses during the first half of the year. In other respects we are not persuaded that applicant has established that discontinuance of the agency would permit the attainment of economies of consequence.

We advert now to consideration of the other grounds on which applicant seeks to discontinue the Dinuba agency, namely, that the work of the agency could be as well performed by other of applicant's agencies. In this connection we note the perishable nature of the commodities involved and the need for prompt shipping service occasioned not only by the perishable nature of the commodities but also by a need to meet marketing deadlines.

It is evident from the testimony of the shipper witness and of the representative of the Dinuba Chamber of Commerce that both fear that the quality of applicant's service will deteriorate with the closing of the Dinuba agency, particularly with respect to

the replacement of defective rail cars which applicant has tendered for the transportation of the shipments. The record does not show how frequent are the occasions when the shippers are furnished defective cars by applicant. It is evident, however, that when such occasions arise, the shippers deem the situation one which requires prompt remedial action by applicant, inasmuch as the loading and dispatch of the shipments cannot be accomplished until the defective cars are replaced.

As a preliminary to the replacement of defective cars, applicant's practice, it appears, is first to inspect the cars. It is clear from the record that these inspections are the prime cause of the apprehensions of the shippers that undue delays in car replacements will result from discontinuance of the Dinuba agency. In other words the shippers believe that the transfer of the inspection processes to inspectors who are sent from Calwa can only result in inspection delays and car replacement delays which are not experienced when the inspections are made by the Dinuba agent.

On the evidence before us we must conclude that the apprehensions of the shippers concerning inspection delays are justified. If the defective cars must be inspected before they are replaced, it seems self-evident that in the absence of offsetting circumstances, an employee who is based in Dinuba could carry out car inspections in the area more quickly than could an employee who must first travel a distance of 25 to 30 miles to reach the inspection site.

It is the duty of a carrier to provide suitable and proper cars for the transportation of the shipments tendered to it. Where the carrier has failed to meet its obligations in this respect, it is also the carrier's duty to effect corrective measures with reasonable dispatch. In a proceeding of this kind in which the carrier is seeking to modify its replacement procedures pertaining to defective cars, it is incumbent upon the carrier to show that the proposed procedure will reasonably meet the needs of the shippers. We hold that applicant has not done so in this matter and that authorization of the sought change should be withheld pending further information as to its reasonableness.

It may be that present problems about replacement of defective cars can be obviated by applicant through more stringent inspection of its cars before they are dispatched to the shippers in the first instance.⁴ On the other hand, it may be that upon reconsideration of its procedures, applicant may find that it can dispense with its pre-replacement inspections, and simply make replacements upon the basis of notifications by the shippers that cars which have been supplied are defective and unusable.

One other matter which should be considered further prior to authorization of the sought discontinuance pertains to applicant's acceptances of the shipments involved. At present the delivery of the shipments into applicant's custody is accomplished

⁴ The shipper witness told of one instance where a car which had been sent as a replacement for a defective car was itself defective.

when the Dinuba agent signs the bills of lading covering the shipments and thereby acknowledges acceptance of the shipments on applicant's behalf. The procedure which is contemplated by applicant if the Dinuba agency is discontinued is that following the loading of shipments into the rail cars, the shippers would prepare the applicable bills of lading and would deposit them in a locked box at the station. The conductor on the night train through Dinuba would pick up the bills of lading, sign them, and would return a copy to the shippers. Also he would have the cars attached to the train for forwarding to destination.

It appears from statements of applicant's counsel that under the proposed procedure custody of the shipments would not be imputed to applicant until the applicable bills of lading had been signed by the conductor. If such is the result, the responsibility for the shipments and the liability for damage thereto would be shifted from applicant to the shippers for the several hours between the time that the agent now accepts the shipments for applicant and the time that the conductor on the night train would receive them.

This result is inconsistent with the tenor of applicant's allegations in general that the service which the shippers would be accorded if the Dinuba agency is discontinued would be as good as that which is now provided. If this result is not intended, applicant may wish to review this aspect of its proposal further and develop appropriate alternatives for consideration at a later time.⁵

⁵ It appears that if applicant so desires, substantially the present arrangements could be retained, even with discontinuance of the agency, by the publication of a tariff rule providing for the constructive receipt of shipments by applicant upon the deposit of appropriately prepared bills of lading in the locked box for the conductor and the notification by telephone to applicant of the readiness of the shipments for transportation. As another alternative, applicant could empower a part-time agent in Dinuba to receipt for shipments for it.

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For the foregoing reasons, we find that applicant has not justified its proposed discontinuance of agency service at Dinuba. The application for authority to effect said discontinuance should be denied.

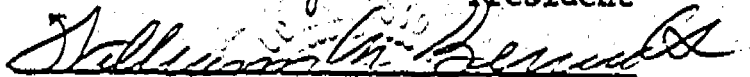
O R D E R


IT IS ORDERED that Application No. 49981 is denied. The effective date of this order shall be twenty days after the date hereof.

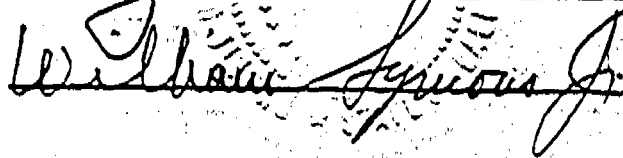
Dated at San Francisco, California, this 2nd day of JULY, 1968.



President







Commissioners

Commissioner Fred P. Morrissey

Present but not participating.