

Decision No. 80948

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LOS ANGELES JUNCTION )  
RAILWAY COMPANY for authority to )  
cancel existing tariff and to file )  
new simplified tariff, resulting in )  
both increases and reductions in )  
rates. )

Application No. 53472  
(Filed July 21, 1972)

Frederick G. Pfrommer, Attorney at Law,  
for Los Angeles Junction Railway  
Company, applicant.  
Robert D. Stout, for Swift Edible Oil  
Company, protestant.  
George L. Hunt, for the Commission  
staff.

O P I N I O N

This matter was heard and submitted September 29, 1972,  
before Examiner Norman B. Haley at Los Angeles.

Los Angeles Junction Railway Company (LAJ) proposes to  
cancel its present switching tariff (Terminal Tariff No. 1-W), which  
provides a number of different switching rates, and to establish a  
new tariff naming principally a single charge of \$36.75 to be  
assessed for switching cars between any two locations served by  
LAJ. The uniform per-car charge of \$36.75, and other proposed  
tariff changes, would result in increases in some rates and reduc-  
tions in others, and therefore would require authority from the  
Commission to be made effective.<sup>1/</sup>

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<sup>1/</sup> Most cars that move under the current tariff, and which would  
move under the proposed new tariff, are intrastate in nature and  
subject to the jurisdiction of this Commission. A few such cars  
contain property moving in interstate or foreign commerce. For  
this reason the tariff also is filed with the Interstate  
Commerce Commission.

LAJ serves approximately 290 industries in the Central Manufacturing District located in Los Angeles County. LAJ performs rail car switching service upon 64 miles of its own track and upon one mile of track of the Union Pacific Railroad Company (UP). Applicant's tracks connect with The Atchison, Topeka and Santa Fe Railway Company (ATSF) and the Southern Pacific Transportation Company (SP), as well as with the UP. All of the capital stock of LAJ is owned by ATSF. The applicant railroad provides only carload service. No less-than-carload service is performed.

Applicant performs three general categories of switching, as described below.

1. Intraterminal switching service, which is a purely local movement of a car wholly between any two locations reached by LAJ;
2. Interterminal switching service, which is a joint switching movement between a location served by LAJ, on the one hand, and a location within the Los Angeles switching limits served by some other railroad, on the other hand;
3. Terminal switching of cars which have been or will be line hauled beyond the Los Angeles switching limits at through rates to which LAJ is a party.

The rates in LAJ's terminal tariff apply to the first two categories of switching described above. The tariff rates generate approximately eight percent of the railroad's annual transportation revenues. The tariff rates do not apply to the third category of switching. Such service is not subject to any separate switching charge of LAJ. Applicant as a participating carrier, negotiates with and receives from the line-haul carrier with which it interchanges traffic, a division of the through revenue for its services. These divisions from joint through rate traffic (both interstate and intrastate) constitute approximately 92 percent of LAJ's annual transportation revenues.

LAJ estimates that if this application is granted, its annual gross revenue will be increased by approximately \$25,000, or somewhat more than one percent. In recent years applicant's published switching rates have been subjected to certain periodic increases which have been authorized to cover increased operating costs experienced by railroads generally.<sup>2/</sup> Applicant alleges, however, that most of its current tariff rates are substantially below cost, fail to cover total cost of providing the service, and do not afford a return on investment.

Attached to the verified application as exhibits are the following documents:

1. Certificate of Amendment of Articles of Incorporation of Los Angeles Junction Railway Company.
2. Balance Sheet as of May 31, 1972, and Income Statement for Periods Shown (Year 1971, and 1972 through May).
3. Los Angeles Junction Railway Company Terminal Tariff No. 1-W (including Supplements Nos. 1, 2, and 3).

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<sup>2/</sup> LAJ's switching rates were last adjusted pursuant to Decision No. 80377 dated August 15, 1972, in Application No. 53107. That decision authorized California railroads a general 2-1/2 percent surcharge increase in intrastate freight charges, which was equivalent to increases authorized by the Interstate Commerce Commission in order dated December 23, 1971, in ICC Docket No. Ex Parte 281. The increase was made applicable to California intrastate traffic in Pacific Southcoast Freight Bureau Tariff of Emergency Charges X-281, Supplement K-33, issued August 24, 1972, effective September 9, 1972. The proposed uniform rate of \$36.75 and other proposed tariff provisions would not be subject to the Tariff of Emergency Charges X-281.

4. Verified Statement of Kyle Harrell (Vice President and General Manager of LAJ).
  - A. Los Angeles Junction Railway Company, Operating Expenses for Constructive Year 1972.
  - B. Investment in Railway Property Used in Transportation Service, Net Railway Operating Income and Rate of Return. The AT&SF Ry. Co., Union Pacific RR Co., Southern Pacific Transp. Co., and Consolidated Return for the 3 Roads, Year 1971.
  - C. Los Angeles Junction Railway Company Net Investment - 1971.
  - D. Los Angeles Junction Railway Company (LAJ) Terminal Tariff No. \_\_\_\_ (Proposed).

Direct evidence on behalf of applicant was presented through its vice president and general manager. He introduced two exhibits in addition to the documents attached to the application with his verified statement. His Exhibit No. 1 consists of LAJ balance sheet as of August 31, 1972, and income statement for 1972, through August. The witness compared the balance sheet as of August 31, 1972, with the balance sheet as of May 31, 1972, attached to the application. He pointed out that between these two dates that assets decreased approximately \$9,000 and that liabilities increased approximately \$66,000. The income statement in his Exhibit No. 1 showed a loss of \$190,283.20 at the end of August 1972. This compares to a loss of \$109,732.74 at the end of May 1972, as shown in the income statement attached to the application. The witness' Exhibit No. 2 is LAJ estimated income statement and expenses for constructive year 1972. It will be discussed hereinafter in connection with the estimated rate of return under the proposed tariff.

The railroad's 1971 operating revenue was \$1,968,093. The witness estimated that net revenue under the proposed tariff, if authorized, will be increased approximately \$24,870. He based this estimate upon the fact that during a test period of 120 days during 1971 (10th through 19th of each month) that 1,467 cars moved under principal revenue producing items of the current tariff resulting in revenue of \$41,858. He pointed out this only partially reflected a nine percent increase in rates in June 1971, and did not at all reflect an increase of about four percent in late December. Taking these increases into account for a full year, he estimated that the revenue from those cars would have been approximately \$45,510 at current tariff rates. Assuming that the proposed charge of \$36.75 had been assessed for each car, he calculated that a total revenue of \$53,800 would have been produced.<sup>3/</sup> This would be an increase of \$8,290 under the tariff, or approximately 18.22 percent. He annualized that figure by multiplying it by three to arrive at \$24,870.

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<sup>3/</sup> The proposed charge of \$36.75 would apply to most car movements. For switching special equipment (other than defined "ordinary equipment") an additional charge of \$35.90 would be assessed under Item 3 of the proposed tariff, subject to certain named exceptions. Special equipment consists of higher priced specialized cars. Decision No. 74400 of July 16, 1968, (68 Cal PUC 519) authorized establishment of the extra switching charge for special equipment by California railroads (then at \$25.00). In Finding 8 the Commission stated "Establishment of the proposed charge for California intrastate traffic will discourage the use of specialized equipment in purely local switching service, to the extent that such use is made, and will tend to improve the availability of such equipment for line-haul service." The LAJ witness explained that the provisions of proposed Item 3 must be the same as comparable tariff provisions of the other railroads serving Los Angeles. He asserted that charges for switching special equipment under the tariff amount to very little.

The witness explained that its tariff is unnecessarily complex, that it contains a number of rates and charges, each of which is subject to a number of descriptions and conditions, and that such rates and charges vary substantially in amount and basis from charges elsewhere stated in the same tariff for essentially similar, if not identical, switching services. He stated that during 1971 the LAJ terminal tariff produced revenue ranging from \$18.02 to \$44.72 per car, depending upon application of different tariff items to a variety of described switching situations.

According to the witness LAJ switched 60,147 revenue cars during 1971 of which 55,527 moved at joint through rates to which LAJ is a party. He explained that LAJ's tariff switching charges are generally lower than the revenue received by it from line-haul carriers for performing similar, if not identical, switching service. Of the 60,147 cars switched during 1971, 4,620 were subject to LAJ's tariff rates. These produced a revenue of \$132,717 or an average of \$28.72 per car. If the same car arrived in line-haul service from a point beyond the Los Angeles switching limits, LAJ's division of line-haul revenue for performing the same service was \$31.21.

The LAJ witness stated that the different categories of cars under the terminal tariff receive approximately the same handling in the same train movements by the same crews as the revenue division cars, and, with minor exceptions, that all cars incur approximately the same expense. It was his position that the proposed single rate of \$36.75 reflects the fact that switching service performed by LAJ is essentially the same from car to car; that it would be simple to apply; that it would return revenue sufficient to cover costs of providing the service; and that it would give the railroad an opportunity to earn a reasonable return on its investment. In addition to the proposed tariff charge of \$36.75, the witness stated that LAJ is also seeking through negotiations a revenue division of \$36.75 for switching cars for the line-haul carriers.

The LAJ witness developed figures to show the overall revenue needs of the railroad to cover expenses and produce what he believes to be a fair rate of return. He believes that the rate of return for LAJ should be equivalent to the consolidated rate of return of the three trunk line carriers with which LAJ connects. He produced figures to show that the rate of return based on average net investment at the beginning and end of 1971 was 5.20 percent for ATSF; 5.81 percent for UP; and 3.76 percent for SP. The consolidated rate of return for the three carriers was 4.89 percent. He adopted this figure as a reasonable rate of return to apply to the LAJ average 1971 net investment of \$4,230,957.81.

The vice president and general manager testified concerning estimated operating expenses for a constructive year, 1972. He based the figures upon actual experience for the first five months of 1972 and upon estimates for the balance of the year. He explained that he regularly makes such estimates for his own management purposes. Expenses were adjusted to reflect for a full 12 months any increase in wages which will take effect during 1972 as a result of collective bargaining agreements previously entered into. He stated that all such agreements have been approved by the Wage Board. He anticipates that there will be little, if any, productivity gains resulting from the agreements. The witness explained that certain major transportation expense accounts are directly affected by the number of cars switched. The number of cars bear upon the number of engine hours, the number of yard crew shifts, and certain related expenses.

The witness explained that for the first five months of 1972 the actual number of cars switched was 23,198, compared with 26,233 for the same period in 1971. For the last seven months of 1972 he estimated that the number of cars switched will be 33,700, compared with 33,914 for the same period in 1971. Thus, for 1972 he estimated that the total number of revenue cars switched will be 56,898. This figure represents a reduction of 3,249 cars from the 1971 total of 60,147. The witness believes that if actual traffic for 1972 is greater or less than predicted, that this will not have any significant effect upon needed revenues per car because operating expenses probably will be increased or reduced in proportion.

Set forth below is a summary of the LAJ witness' overall estimates for 1972.

Constructive Year 1972

Operating Expenses	\$1,701,500
Other Expense Items	<u>394,200</u>
Total Expenses	2,095,700
Estimated Revenues (other than switching)	<u>212,200</u>
Deficit	1,883,500
Return on Investment (4.89%)	<u>206,894</u>
Switching Revenue Needed	\$2,090,394
Revenue Per Car Needed (Switching Revenue Needed ÷ 56,898 Revenue Cars)	\$36.75



In his Exhibit No. 2 the witness estimated that federal income tax would reduce the estimated return of \$206,894 to \$107,585. This would be a 2.54 percent rate of return on the LAJ average 1971 net investment of \$4,230,957.81. This was asserted to be less than a fair rate of return, but that applicant plans to establish the proposed tariff charges and to achieve actual data before considering whether a higher charge is justified.

A copy of the application was served upon each of the 290 carload shippers and receivers served by LAJ prior to August 1, 1972. There was one protestant.

Testimony in opposition to certain of the proposed tariff changes (Exhibit No. 3) was presented by the traffic manager of Swift Edible Oil Company, Division of Swift & Co. (Swift Oil). The testimony of this witness was essentially in opposition to cancellation of certain free switching provisions in Item 115 of the current tariff and substitution of the uniform charge of \$36.75. He was concerned primarily with intraplant switching of empty private tank cars (cars leased by Swift Oil). In this connection he asserted that there should be a lesser charge for switching privately-owned cars than for railroad-owned cars when the movement is not incidental to a line-haul movement.

Inbound loaded cars are spotted by LAJ at Swift Oil's unloading track. After unloading LAJ spots the empty cars at the plant storage track. In order for Swift Oil at Los Angeles to load and ship products in tank cars, a switch is necessary from plant storage track to cleaning track and another switch from cleaning track to loading track. It was the traffic manager's understanding that each of the empty car moves would be assessed a charge of \$36.75 under the proposed LAJ tariff.

It was the traffic manager's position that the empty private tank car moves are incidental and essential to preparing the cars for outbound rail shipments; that the switching of empty private tank cars is of no economic benefit to Swift Oil; that LAJ will remove empty railroad-owned cars to the railroad yard without charge; that LAJ will furnish suitably clean railroad-owned equipment to the Swift Oil loading track without charge; that no less switching is involved by LAJ to furnish a railroad-owned car than to make the necessary switches of privately-owned Swift Oil tank cars preparatory to outbound movement; and that the furnishing and switching of railroad-owned equipment is more costly than switching private tank cars because, among other things, there is a cost of the cars to the railroads. It was the witness' understanding that costs for switching empty tank cars for Swift Oil are included in the freight rates applicable to outbound loaded moves. In this connection he cited certain free empty car movement rules in tariffs of ATSF, SP, and UP that govern switching performed by these carriers at Los Angeles, including the plant of Swift Oil. He recommended that LAJ bear the cost of switching service performed by it which is incidental to line-haul movements.

Counsel for applicant cross-examined the Swift Oil traffic manager and responded to his testimony. The LAJ counsel explained that it was not applicant's intention that a switching charge be applied to a car of private ownership which has been unloaded and placed on a storage track and subsequently moved, first to a cleaning track and then to a loading point, as long as the car goes in line-haul service. He stated, however, that there should not be an unlimited number of free moves involved. He also stated that it is up to the shipper or receiver to plan its operations so that there is a reasonable connection in point of time from the time a car is

placed on a storage track after unloading to the time it is moved to a cleaning track, and thence to point of loading for outbound movement. According to the attorney, applicant plans to prepare in the future more specific tariff provisions which will cover not only the Swift Oil problem, but any similar problems that may occur at other industries. He said more specific language should not be framed at this time because applicant needs an opportunity to review the situations at other industries on its line.

Applicant's attorney produced a list of requested findings of fact, including findings required by the Federal Price Commission regulations, and by Rule 23.1 of this Commission's Rules of Procedure. He referred to specific portions of the record which assertedly support each of the requested findings.

#### Discussion

The evidence is clear that applicant is operating at a loss at existing switching rates and under the divisions of joint through rates which it receives from the line-haul carriers, and that applicant is in need of additional revenue to cover expenses and to provide a return on investment. The record shows that applicant's cost of performing switching service is approximately the same from car to car, whether subject to its terminal tariff or subject to division of revenue from other railroads; that in 1971 applicant received approximately \$2.50 less average revenue from tariff cars than from revenue division cars; that revenue for switching all tariff cars (ordinary equipment) should be the same; and that the proposed tariff attached to the application as Appendix D of Exhibit No. 4 is justified. The record further shows that applicant's estimate of \$2,090,394 of revenue required to cover current total railroad expenses and provide a rate of return of 4.89 percent on LAJ average 1971 net investment before federal income taxes is a reasonable estimate; and that applicant's estimate of \$24,870 additional revenue that would be earned under its proposed tariff also is a reasonable estimate.

In connection with federal price controls and Rule 23.1 of this Commission's Rules of Practice and Procedure, the LAJ witness testified that certain of the national labor agreements to which the switching railroad is subject were negotiated subsequent to November 13, 1971. Such national agreements apparently provide for wage increases which exceed the Price Commission's policy of limiting wage increases to 5-1/2 percent per year (including fringe benefits). However, the amount that this excess labor expense would affect total expenses related to switching tariff cars by LAJ would be very minor and would not affect the findings and conclusion which follow.

Applicant's proposed tariff would not apply to intraplant switching of private cars which ordinarily and necessarily must be performed preparatory to and in conjunction with outbound movements for which applicant receives a division of the line-haul revenue. As indicated by its attorney, applicant will look into this matter to determine whether any revisions are needed to clarify application of its tariff. Under the circumstances no findings are required at this time concerning application of the LAJ tariff, or the tariffs of line-haul carriers containing joint through rates, as the case may be, to intraplant switching of private cars by LAJ.

#### Findings

1. Applicant is a railroad common carrier in intrastate as well as in interstate and foreign commerce, performing railroad switching services over its tracks and upon one mile of UP track in Los Angeles County, California. As such, it is subject to the jurisdiction of this Commission. Applicant is a wholly owned subsidiary of ATSF, also a railroad common carrier subject to the jurisdiction of this Commission.

2. Applicant provides switching service between points on its line, including interchange tracks with connecting carriers where the car is to or from a point on the line of another carrier within the switching limits of Los Angeles. This switching service is performed pursuant to applicant's terminal switching tariff, regularly filed with this Commission and the Interstate Commerce

Commission, and such shipments under this tariff account for approximately eight percent of applicant's annual transportation revenues. Shipments moving at this tariff would be affected by this application. Almost all of such switching is intrastate commerce.

3. On traffic moving between points on its line and points on the rails of line-haul carriers beyond the Los Angeles switching limits, applicant participates in the joint through line-haul rates and is compensated for switching cars between industries on its line and interchange tracks of connecting carriers, by dividing the revenue from such joint rates with the other participating carriers in such amounts as may be negotiated. Such divisions constitute approximately 92 percent of applicant's annual transportation revenues. Such traffic is not subject to this application.

4. Applicant performs substantially the same service on all cars which it switches, whether at a division of through line-haul rates or under its terminal switching tariff, and the costs to applicant of performing such services are substantially the same.

5. Applicant's current tariffs provide for switching services which are substantially similar, if not identical. A number of different per-car switching charges are expressed sometimes in rate per unit of weight, sometimes as a flat charge per car and sometimes as a combination of such rate and charge, in widely varying amounts subject to varying and confusing technical conditions which have no real relationship to the service performed by applicant, or its cost. Total revenue received from its tariff is insufficient to permit applicant to cover expenses and provide a return on investment.

6. Applicant's proposed new tariff will name a single per-car charge of \$36.75 to be uniformly assessed for most switching service performed by applicant under its tariff.

7. The proposed new tariff will result in both increases and reductions in rates and charges. Taken together, the increases and reductions in rates and charges are justified. The rules and other proposed tariff provisions also are justified.

8. The estimate that the proposed new per-car charge of \$36.75 will increase applicant's annual revenue by approximately \$24,870 per year is a reasonable estimate of anticipated additional tariff revenue. This amount would be approximately 1.26 percent of LAJ 1971 aggregate annual revenue of \$1,968,093, or approximately 18.74 percent of its 1971 tariff revenue of \$132,717.

9. In compliance with Rule 23.1 of this Commission's Rules of Practice and Procedure promulgated pursuant to the Economic Stabilization Act of 1970, we find and determine:

- a. The proposed new charge of \$36.75 is cost justified and does not reflect future inflationary expectations. The expense and traffic estimates, as set out in the opinion, are reasonable estimates and should be adopted.
- b. The average or composite rate of return for 1971 of the three line-haul carriers with which applicant interchanges the traffic from which it derives 92 percent of its revenue, is 4.89 percent. After provision for federal income tax, application of the proposed charge of \$36.75 to the sum of its tariff and revenue division traffic would give applicant a rate of return on its investment of approximately 2.54 percent.
- c. The proposed uniform per-car charge of \$36.75 should, at anticipated levels of traffic, return to applicant a sum sufficient to recover its expenses of operation at current levels, plus a return on investment before federal income taxes. Under the circumstances, the proposed charge is the minimum required to assure continued adequate and safe service or to provide for necessary expansion to meet future requirements, and will achieve the minimum rate of return needed so as not to impair the credit of applicant.
- d. Any increases in rates or charges which will result from approval of the tariff changes do not reflect labor costs in excess of those allowed by policies of

the Federal Price Commission, and there are no expected and obtainable productivity gains susceptible to quantitative measurement which may be taken into account.

10. The procedures of the Commission provided for reasonable opportunity for participation by all interested persons or their representatives. Notice of the hearing was sent to carrier and shipper organizations known to be interested. The shippers and receivers were notified by applicant of the proposal prior to August 1, 1972.

The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

1. Los Angeles Junction Railway Company is authorized to cancel its Terminal Tariff No. 1-W and to establish in its place the proposed tariff appended to the application as Appendix D of Exhibit No. 4. Tariff publications authorized to be made as a result of this order shall be filed not earlier than the effective date of this order, and shall be made effective on not less than ten days' notice to the Commission and the public.

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

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

Dated at San Francisco, California, this 9<sup>th</sup>  
day of JANUARY, 1973.

Verdugo L. Sturgeon  
President  
J. Warren  
[Signature]  
[Signature]  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.