

ORIGINAL

Decision No. 83441

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Southern Pacific Transportation )  
Company for authority to discontinue )  
agency at Niles, County of Alameda, )  
State of California. )

Application No. 54359  
(Filed October 1, 1973)

Harold S. Lentz, Attorney at Law, for  
applicant.  
Loughran, Berol & Hegarty, by Ann M.  
Pougiales and Leigh B. Morris,  
Attorneys at Law, and Richard Mendell,  
for Pacific States Steel Corporation;  
Kirk J. Hundven, for Railway Clerks  
Union; Bert Tyrone Taylor, for Liquid  
Air, Inc.; John N. Angelo, for B.R.A.C.  
#802, Brotherhood of Railway - Steamship  
Clerks; and Roger Leftridge, for The  
Flintkote Company; protestants.  
Amelia R. Silva, for herself; James H. Dyer,  
for Niles Merchants Association;  
John R. Walasek, for himself;  
Howard N. Mohn, for Kraftile Company;  
and Marjorie M. Fairchild, for The  
Tumbleweed; interested parties.  
Peter Arth, Jr., Attorney at Law, and  
Edward C. Cole, for the Commission  
staff.

O P I N I O N

This application was heard before Examiner Fraser on  
January 11, February 5, and March 6, 1974 at Fremont; also on  
March 7 and 8, 1974 in San Francisco. Copies of the application  
and the notice of hearing were served in accordance with the  
Commission's procedural rules. It was submitted on concurrent  
opening and closing briefs which have been received and filed.

Applicant requests authorization to discontinue its agency in Niles, and to transfer the functions of the Niles agent to Newark. A protest was filed by the Pacific States Steel Corporation of Union City on November 13, 1973 and a hearing was requested. During the hearing Liquid Air, Inc., The Flintkote Company, and the Brotherhood of Railway-Steamship Clerks appeared as protestants, along with Pacific States Steel Corporation.

The following testimony was presented by the applicant. The Niles station is operated by three men, with one employee on duty Saturday and Sunday. It is only open during the day. If the Niles station is closed its functions will be handled by the Newark station, which is 6-3/4 miles from Niles. The Newark station is open seven days a week, and twenty-four hours a day. Nine men are employed at Newark, plus necessary relief men during vacations or periods of illnesses. It was emphasized that all customers can be better served at Newark than Niles since the former station is always open and has rate men and tariffs available. Shippers who require freight cars will use a toll-free telephone number to call Newark instead of Niles. Bills of lading will be handled the same way with the agent visiting the customer to pick up and sign the bills. Car sealing, car spotting, rate and route information, demurrage, and car tracing will be handled out of Newark with no change. All business handled at Niles is on a carload basis. The paper work involved is primarily handled by computer out of the Oakland office. Exhibit No. 5 indicates that no freight bills were issued from Niles during the period from January 1971 through October 1973 and that only 24 bills of lading were issued. The exhibit lists the preparation of waybills (a form prepared for each freight car which lists the contents, destination, and other information) and the taking of car orders from shippers as the principal

duties at Niles. Exhibit No. 6 totals the annual expense of maintaining the Niles station at \$37,010 for 1971, \$44,383 for 1972, and \$38,233 for the first ten months of 1973. Exhibit No. 7 indicates a gross annual saving of \$44,800 if Niles is operated as a nonagency station. A net saving of \$23,100 is computed on the basis that one of the three men at Niles will probably be transferred to Newark where his salary and expenses will continue. Two of the three men at Niles will lose their jobs if the station is closed, although they may be employed at other stations, depending on their seniority. Prior to September 1972 the regular shippers served from the Niles station were visited by a railroad representative and warned that the Niles agency would be closed. On May 11, 1973 the shippers were contacted by the same representative and notified that the functions of the Niles agency would be transferred to the Newark agency as an experiment, which lasted from May 14, 1973 through July 12, 1973. During this period the employees of the Niles agency asked those who phoned or came in to contact the Newark agency for service. If a caller insisted service was provided at Niles, but an effort was made to involve the Newark agent.

The principal protestant was Pacific States Steel Corporation. It has operated a large steel plant in Union City since 1938 and has used the facilities of the Southern Pacific railroad since the plant started production. Pacific States Steel (Pacific) is a large shipper. During 1972 it shipped 1,136 cars and received 731 cars, for a total of 1,867 cars handled (Exhibit No. 12). The car totals for 1973 were 883 inbound and 818 outbound, for a total of 1,701. The protest of Pacific was directed exclusively to the period from May 14 through July 12, 1973 when the function of the Niles agency was temporarily handled at Newark.

Pacific complained of a shortage of gondola cars in 1973 and that the applicant picked up no cars from June 20 through June 23, 1973. It was noted that on several occasions during May and June of 1973 Pacific received empty cars which contained scrap lumber, dirt, and debris. Two cars received had portions of the floor missing and a third car had an open end. These three cars were unsuitable and had to be returned empty. The testimony emphasized that railroad service was inadequate on the receipt and pickup of freight cars and the keeping of demurrage records, while Newark was handling the Niles accounts. The service became adequate again after the Niles agency was reactivated. The Kraftile Company of Fremont was also a protestant. The service manager of Kraftile testified that a special type of car is required for all loading and each car must be clean, with a solid floor. He advised that the agent at Niles has personal knowledge of Kraftile's requirements and has occasionally rejected cars assigned to Kraftile, when he realized they were unsuitable. He stated experience indicates this service may not be available if the agency is moved. The witness also advised that during ten months of 1973 a total of eight cars were received and six were shipped, with no cars in or out during the months of January, February, March, April, or July. No records were available for the months of May or June 1973.

Applicant acknowledged that several switching errors were made during the two months Niles accounts were handled at Newark. It was emphasized that switching and moving trains is a function of railroad operations. Agents have no authority or control over the assignment or movement of freight cars. Errors were corrected as soon as possible after they were reported, although freight and gondola cars are difficult to obtain on short notice.

Eight members of the public made statements for the record. Three union representatives were concerned that jobs will be eliminated if the Niles agency is closed. Several Niles merchants are located across the street from the agent's office and the railyard. They advised that their customers park on railroad property and the agency attracts people who visit the nearby stores. One individual implied that if the agency is closed it is possible the tracks will be removed and the entire railyard will be abandoned and sold.

Discussion

If this application is granted the agency will be moved six miles. It should have no effect on agent-shipper relations. Only two shippers protested and one was concerned with the switching and assignment of freight cars, which the agent does not control. The other protestant emphasized the necessity of having an agent who is familiar with each shipper's problems. This relationship should not be affected under the circumstances. Two jobs will be lost at Niles, but the men involved should be employed elsewhere on the railroad. There is no indication that applicant will eliminate or restrict operations at the Niles railyard nor that local merchants will lose business due to the mere removal of the agency.

Findings

1. The Niles agency handles only carload freight for substantial shippers.
2. The Niles agency is open during working hours seven days a week. It is staffed by three employees.

3. Applicant has applied to close the Niles agency and to transfer the agency functions to Newark, about seven miles away. The Newark agency is open twenty-four hours a day, seven days a week.

4. The functions of the Niles agency can be assumed by the personnel at Newark without seriously inconveniencing the public.

5. Public convenience and necessity do not require the services of an agent at the Niles station, since the public can be efficiently served with a nonagency station.

The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

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

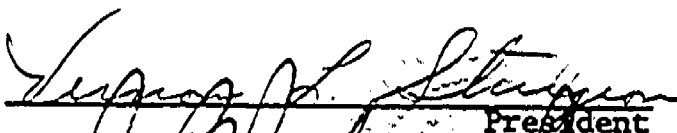
- (a) Applicant shall maintain the station in a nonagency status for the receipt or delivery of freight in carload or trailer load lots only.
- (b) Within one hundred twenty days after the effective date of this order and not less than ten days prior to the discontinuance of the agency at Niles, applicant shall post a notice of such discontinuance at the station and, within one hundred twenty days after the effective date of this order and on not less than ten days' notice to the Commission and to the public, applicant shall file in duplicate amendments to its tariffs showing the change authorized and shall make


reference in such notice and tariffs to this decision as authority for the change. In no event shall the agent be removed earlier than the effective date of the tariff filings.

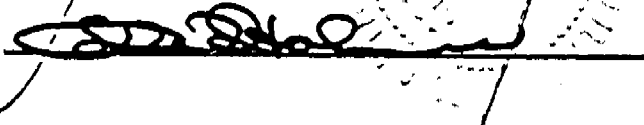
- (c) Within thirty days after discontinuance of service applicant shall give written notice to the Commission that it has complied with this order.

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

Dated at San Francisco, California, this 11<sup>th</sup> day of SEPTEMBER, 1974.

  
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President

  
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Commissioner

  
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Commissioner

Commissioners

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

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.