

Decision No. 83486

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LOS ANGELES JUNCTION)
RAILWAY COMPANY for authority to }
increase terminal tariff switching }
charge, and for interim relief. }

Application No. 54266
(Filed August 24, 1973;
amended December 4, 1973)

F. G. Pfrommer, Attorney at Law, for
Los Angeles Junction Railway Company,
applicant.

Don A. Iiams, for Emery Industries, Inc.,
protestant.

George L. Hunt, George R. Mann, and Fred K.
Hendricks, for the Commission staff.

O P I N I O N

This matter was heard on February 4 and 5, 1974 before Examiner Charles E. Mattson at Los Angeles, California. The matter was submitted February 5, 1974.

The Applicant's Request

Los Angeles Junction Railway Company (LAJ) requests authority to increase certain terminal switching charges within California to \$47.20 per car. The present charge per car switched is \$38.83. The switching charge involved was established at \$36.75 per car in Item No. 4 of LAJ Terminal Tariff 1-X effective March 15, 1973 and remained in effect in LAJ Terminal Tariff 1-Y, effective April 1, 1973. The present rate of \$38.83 per car is the result of a percentage surcharge authorized to offset increased railroad retirement taxes (Decision No. 82016 dated October 16, 1973 in Application No. 54268 filed August 24, 1973).

The increase requested herein is for final rates and will not be subject to the percentage surcharge granted by Decision No. 82016.

Applicant's Operations

The Commission last reviewed applicant's operations in Decision No. 80948 dated January 9, 1973 in Application No. 53472, filed July 21, 1972. The general description of LAJ as set forth in Decision No. 80948 is still correct. LAJ performs rail car switching service in the Central Manufacturing District located in Los Angeles County. The LAJ tracks connect with the Union Pacific Railroad Company (UP), The Atchison, Topeka and Santa Fe Railway Company (AT&SF) and the Southern Pacific Transportation Company (SP). LAJ is a wholly owned subsidiary of AT&SF.

The terminal tariff involved in this proceeding is applicable to LAJ switching service which is a car movement between two locations served by LAJ or between a location served by LAJ and a location within the Los Angeles switching limits served by some other railroad. These switching movements are described as tariff cars. LAJ also performs terminal switching of rail cars which have been or will be line hauled beyond the Los Angeles switching limits at through rates to which LAJ is a party (line haul cars). LAJ receives a division of the through revenue from the line haul carriers with which it interchanges traffic. Line haul cars are not subject to the tariff involved in this case.

In 1973 LAJ switched a total of 49,715 rail cars from which it obtained revenues. There were 46,047 line haul cars (92.6 percent) and 3,668 tariff cars (7.4 percent). The final amount of revenue to be received by LAJ from the division of revenues for the line haul cars is established by negotiation between LAJ and the three line haul carriers. These negotiations are concluded after the calendar year in which LAJ performs the work. The Commission has been advised by LAJ that the 1973 payment for line haul traffic is \$46 per car, retroactive to January 1, 1973.

LAJ's Contentions

LAJ requests that tariff rates be established at \$47.20 per car switched. In support of this tariff rate, LAJ relies upon a summary of revenues, expenses and net income for the constructive year 1974. The 1974 rate of return on net investment at the requested rate, would be 4.83 percent. LAJ sets forth its switching revenues for the constructive year 1974 by applying the requested tariff rate to all switching performed.

The data relied upon by LAJ is set forth in Exhibits 3 (revised) and 4 (revised).

The Staff Report

The staff presented one witness in support of its report (Exhibit 6). The staff report developed adjusted net investment and adjusted net operating income for the calendar year 1973 at the present level of rates and charges. The staff derived an operating ratio of 92.54 percent and a rate of return of 5.27 percent for 1973.

The staff recommended that any increase in switching charges be no higher than necessary to produce the level of earnings requested by applicant, namely, about 5.7 percent.

Evidence of Emery Industries, Inc.

Mr. Don A. Iiams, the traffic manager for the Western Operations of Emery Industries, Inc. (Emery) appeared and presented evidence. Emery is a customer of LAJ, and in 1973 paid LAJ over \$24,000. A substantial portion of Emery's payments are made under the switching tariff involved in this case. Emery points out that the requested increase would be an additional 21.55 percent over existing tariff rates. The rate increase request is opposed on the grounds the increase is excessive.

The cross-examination established that Emery's operations require substantial switching from track leased from LAJ to the Emery plant track. Emery does not have space to build storage track at their plant location.

However, there is no evidence that the cost to LAJ to perform switching for Emery differs from the cost of switching cars for other customers. Under such circumstances, the charge to all customers under the tariff must be the same. To the extent that LAJ requires a certain level of revenue, all cars switched should contribute equally to that revenue requirement.

Preliminary Comment

LAJ's original application relied upon a constructive year 1973. At hearing, LAJ introduced revised exhibits based on the constructive year 1974. Constructive year 1974 was based upon estimated results of operations in 1973 updated for increases in railroad retirement tax and wages effective January 1, 1974. The staff report sets forth a calendar year 1973 adjusted income statement for LAJ. At the hearing, LAJ relied upon its average net investment for 1973. The staff used an adjusted net investment for calendar year 1973 in its analysis.

The reasonableness of the rates requested by LAJ should be determined by use of the constructive year 1974. The use of the constructive year 1974 will result in recognition of known expense levels effective January 1, 1974. Since LAJ's constructive year 1974 is based upon its constructive year 1973, the staff presentation based on the calendar year 1973 directly tested LAJ's 1974 showing (with the exception of the two expense items). Our decision to use the constructive year 1974 is also based on the fact that LAJ's operations appear relatively stable in terms of total switching operations (total revenue cars) and net investment represented by railroad property (depreciated).

Net Investment (Rate Base)

In its original application filed in this proceeding, LAJ presented an average of June 30, 1972 and June 30, 1973 net investment in the amount of \$3,955,753. In its rate proceeding

in Application No. 53472 LAJ's average net investment for 1971 was \$4,230,958.

At hearing, LAJ presented an average net investment, based on December 31, 1972 and December 31, 1973 figures, as follows:

Table I

Los Angeles Junction Railway Company
Net Investment

	<u>December 31, 1972</u>	<u>December 31, 1973</u>
Railway Property (Depreciated)	\$3,733,094.67	\$3,730,458.73
Working Capital		
Cash	76,902.39	542,981.22
Material & Supplies	<u>116,968.92</u>	<u>107,048.10</u>
	<u>\$3,966,965.98</u>	<u>\$4,380,488.05</u>
Average Net Investment	\$4,173,727	

LAJ based its calculated rate of return for the constructive year 1974 on the above average net investment. Since the staff exhibit was based upon calendar year 1973, the staff 1973 average net railway property investment may be compared with LAJ's average net investment figures. The weighted average method of the staff produced the following results:

Table II

<u>Average</u>	<u>: 1971</u>	<u>: 1972</u>	<u>: 1973</u>
Railway Land & Property - Net	\$ 88,117	\$2,922,813	\$3,757,232
Working Capital - Net	<u>203,290</u>	<u>215,591</u>	<u>337,765</u>
Average Net Railway Property Investment	\$291,407	\$3,138,404	\$4,094,997

The willingness of LAJ to use a 1973 average net investment is probably in recognition of the relatively stable rate base. Railroad property (depreciated) declined from June 30, 1972 to December 31, 1973. The bulk of the increase in average net investment shown by LAJ is the result of a \$408,110.60 increase in cash on hand from June 30, 1972 to December 31, 1973. LAJ's Vice President and General Manager Harrell explained that the increase in the cash account was a result of the liquidation of all temporary investments.

LAJ did present evidence that in 1974 estimated capital expenditures would exceed depreciation by approximately \$27,000. However, the staff's weighted average method appears to more accurately reflect a reasonable amount in LAJ's cash account. The present level of the cash account appears substantially in excess of the level of working cash required by LAJ in the past.

Under the circumstances, the weighted average net investment rate base of the staff of \$4,094,997 will be used for the constructive year 1974.

Results of Operations

The staff set forth an adjusted income statement for calendar year 1973. At hearing, LAJ presented an income statement based on the constructive year 1974. In our view, the use of the constructive year 1974 is supported by the record. The staff witness ✓ expressed the opinion that he would accept the constructive year 1974 presented by LAJ (after recognition of miscellaneous rental income and recomputed federal income tax). The operations of LAJ do not appear to vary sharply between 1973 and 1974, and failure to recognize the January 1, 1974 known expense increases in wages and railroad retirement taxes could only understate 1974 revenue requirements for LAJ.

We will adopt the constructive year 1974 set forth in Table III. We have accepted, with the adjustments noted below, the constructive year 1974 presented by LAJ.

The adopted income statement reflects the 1974 anticipated expenses. The income is "constructive", as described below.

Table III
Los Angeles Junction Railway Company
Constructive Year 1974
Income Statement at \$47.20 per car revenue

Operating Revenues

110 Switching	\$2,362,360	
137 Demurrage	257,700	
143 Miscellaneous	44,800	
501 Railway Operating Revenue		\$2,664,860

Other Revenue

508 Joint Facility Rent-Income	\$ 3,600	
541 Joint Facility Rents	(3,300)	
510 Misc. Rent Income	28,400	
536 Hire of Freight Cars-Debit	(45,660)	
		\$ (16,960)
Net Railway Oper. Revenue		\$2,647,900

Operating Expenses

200 Maint. of Way & Structures	\$ 226,596	
300 Maintenance of Equipment	117,800	
370 Transportation	1,251,263	
450 General	243,594	
Total Railway Operating Exp.		\$1,839,253

532 Railway Tax Accruals		
Other Than Federal Inc. Tax	\$ 392,580	
Federal Income Tax and State Franchise	211,170	
		\$ 603,750
Total Expenses		\$2,443,003

Net Railway Operating Income \$ 204,897

Rate of Return 5.00%

Operating Revenues - The costs incurred by LAJ in its switching operations are substantially the same for all cars switched. Switching revenue is estimated on the assumption that tariff cars and line haul cars will contribute equally to revenues. The estimated total revenue cars for 1974 (50,050) appears reasonable. LAJ's actual experience has been 49,715 revenue cars in 1973, 54,730 in 1972, and 60,147 in 1971.

Other Revenue - Table III includes miscellaneous rent income in the amount of \$28,400. LAJ excluded this income on the grounds that the account (510) is not an operating revenue account. However, the record is clear that the property is included in net investment depreciation, an expense item.

Operating Expense - The federal income tax is adjusted to reflect the rental income included in other revenue. The federal tax is reduced by \$6,500 to reflect the actual federal tax rate on the first \$25,000 of taxable income. We have included an allowance for state franchise payments.

Rate of Return

In 1973 over 92 percent of LAJ's revenue cars switched were line haul cars. In negotiating for a division of the line haul revenue, the line haul carriers will not agree to a rate of return for LAJ in excess of the return they have earned. Accordingly, LAJ requests a rate of return equivalent to the consolidated return of its three line haul carriers. The consolidated rate of return calculated for 1972 is 5.64 percent.

The staff position is that any increase in switching charges should be no higher than necessary to produce the level of earnings requested in the application, namely, about 5.7 percent.

For the purposes of this decision, we will accept the staff position. However, the consolidated rate of return approach of LAJ raises some obvious questions. It does not appear reasonable to assume LAJ's return should fluctuate annually. Under the

consolidated return calculation, LAJ's appropriate rate of return would be 4.09 percent in 1971 and 5.64 percent in this proceeding.

The rate of return based on the constructive year 1974 adopted herein is 5 percent. This return is below the level of 5.7 percent, which appears to be the staff's recommended upper limit. However, it is in excess of the rate of return LAJ relied upon for its presentation in Application No. 53472, and exceeds the return of one of the three connecting railroads used in LAJ's rate of return exhibit in this proceeding (Exhibit 2).

Rates Authorized

We agree with LAJ's view that it would not be fair to ask LAJ's customers to pay a terminal tariff in excess of the amount LAJ receives for switching line haul cars. The record supports the requested tariff rate of \$47.20. However, such a rate would exceed the amount LAJ receives from the agreed division of revenues on 92 percent of its switching operations. While it is clear that increases in division revenue have been retroactive (and include the line haul cars switched in the preceding calendar year), such retroactive increases are not assured.

Our rate authorization will be conditioned. LAJ will not be authorized to increase its rates and charges under the tariff to a level in excess of the negotiated amount it is entitled to receive as a division of revenue on the line haul cars, and in no event in excess of \$47.20.

Findings

1. Applicant is a railroad common carrier subject to the jurisdiction of this Commission. Applicant performs railroad switching operations in intrastate as well as interstate and foreign commerce in Los Angeles County, California.

2. Applicant provides switching service pursuant to its terminal switching tariff within the switching limits of Los Angeles. This switching service is between points on applicant's

line, and may include interchange tracks with connecting carriers within the Los Angeles switching limits. These operations involve both intrastate and interstate commerce, and the tariff is filed with the Interstate Commerce Commission. Operations under the terminal switching tariff involve approximately 8 percent of applicant's switching operations.

3. Applicant performs terminal switching of cars which have been or will be line hauled beyond the Los Angeles switching limits. Applicant participates in joint through line haul rates on these cars, and obtains a division of the revenue from such joint rates. Revenue from such division is in an amount negotiated with other participating carriers, and is not subject to the switching tariff. The final amounts received under such division of revenue may be determined by negotiation after the calendar year in which the switching was performed. Under such circumstances, an increase is retroactive. Line haul cars constitute approximately 92 percent of applicant's switching operations.

4. Applicant's costs to perform switching services are substantially the same on all cars switched. Rates and charges to customers for cars switched under the tariff should not exceed the revenue per car received by applicant on line haul cars. A higher charge under the tariff could be discriminatory.

5. Applicant's proposed tariff rate of \$47.20 is justified if line haul cars switched contribute at least an equal amount to switching revenues. The tariff rate, including authorized surcharges, is now \$38.83 per car. The proposed increase is approximately 22 percent. Applicant received \$39.46 per car from the division of line haul revenue traffic at the date of hearings, and has subsequently negotiated a retroactive increase.

6. The increase in tariff rates requested is estimated to increase applicant's 1974 revenues by approximately \$31,000.

7. The proposed tariff rate is just and reasonable, so long as it does not exceed the revenue received per car by applicant for performing similar switching of line haul traffic.

O R D E R

IT IS ORDERED that:

1. Los Angeles Junction Railway Company, subject to the limitation herein provided, is authorized to establish the increased rate proposed in Application No. 54266. The increase authorized is limited to and shall not exceed the per car revenue applicant is entitled to receive under the division of revenue agreement applicable to line haul cars or the amount proposed in Application No. 54266 whichever is less.
2. On or before the effective date of this order, applicant shall advise the Commission in writing the amount of revenue per car it is entitled to receive under the agreed division of revenues for line haul cars switched as of the effective date of this order.
3. Tariff publications authorized to be made as a result of the foregoing authority shall be filed not earlier than the effective date of this order and may be made effective not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public, and this authority shall expire unless exercised within sixty days after the effective date of this order. To the extent that departure from the terms and rules of General Order No. 125 is required to accomplish such publications, authority for such departure is hereby granted.
4. The authority granted by this order is subject to the express condition that applicant will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding, that this opinion and order constitute a finding of fact of the reasonableness of any particular rate or charge. The filing of rates and charges pursuant to this order will be construed as a consent to this condition.

5. Applicant, in establishing and maintaining the rates authorized hereinabove, is authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long - and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

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

Dated at San Francisco, California, this 24th day of SEPTEMBER, 1974.

Vernon L. Stinson
President
William J. Synge Jr.
Thomas Moran
Commissioners

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