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INTERSTATE COMMERCE COMMISSION

Finance Docket No. 19917

MAY 27 1958

LOS ANGELES & SALT LAKE RAILROAD COMPANY ET AL.--ABANDONMENT--
MAMMOTH BRANCH

Decided May 21, 1958.

Certificate issued permitting abandonment by the Los Angeles & Salt Lake Railroad Company and abandonment of operation by the Union Pacific Railroad Company of a branch line of railroad in Juab County, Utah.

W. R. Rouse, L. W. Hobbs, and A. U. Miner for applicants.
E. Steele McIntyre for protestant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MITCHELL, ARPAIA, AND McPHERSON

BY DIVISION 4:

The Los Angeles & Salt Lake Railroad Company and the Union Pacific Railroad Company, both common carriers by railroad subject to the provisions of Part I of the Interstate Commerce Act, as amended, on September 6, 1957, filed a joint application requesting permission for the former to abandon, and the latter to abandon operation of, a branch line of railroad, known as the Mammoth branch, extending from Mammoth Junction to Mammoth Mine, approximately 3.74 miles together with 0.76 mile of incidental yard tracks and sidings, in Juab County, Utah. Mammoth Mining Company, the only shipper using the line, opposed the application. No representations were made by State authorities. By order of January 16, 1958, the proceeding was assigned for handling under modified procedure pursuant to sections 1.45-1.54 of the Commission's General Rules of Practice. The applicants' opening statement and argument was filed February 14, 1958, and thereafter protestant submitted a letter and enclosure as its statement. Reply statement and argument, with a petition to refuse and reject the protestant's statement, was filed by the applicants. The

applicants object to the acceptance of the protestant's letter and enclosure as a pleading, or as otherwise constituting a statement and argument. It contends that the letter and enclosure fail to comply with section 1.50 of the General Rules of Practice because they were not made under oath. Since the statement was submitted by the protestant in explanation of his position in the proceeding and of his alleged need for the line, the letter and enclosure will be given such consideration as they may warrant. An examiner's proposed report was not requested. All points hereinafter mentioned are in Utah, unless otherwise shown.

The line proposed to be abandoned was completed in 1897 and was constructed primarily to serve numerous mining properties in operation in the adjacent territory. Since January 1, 1936, the line has been operated by the Union Pacific Railroad Company under lease pursuant to authority granted in Union Pac. R. Co. Unification, 207 I.C.C. 543.

The line is laid with 60- and 75-pound rail and its present state of maintenance is poor. Due to the extremely light traffic handled, maintenance work during the past several years has been limited. Trains are run on an "on call" basis, and an inspection of the track is made by a section crew, in advance of operation of a train, to perform any necessary work to insure safe operation. After movement the track is again inspected and any work found necessary by reason of the operation of the train is performed. If further operations are to be carried on, an expenditure of approximately \$268,600 will be required to place the line in ordinary branch-line condition, and maintenance and patrol expense thereafter is estimated at \$15,000 per year. The applicants estimate the net salvage value of the line to be \$16,657.

The only stations on the line are at Mammoth Junction, Mammoth, and Mammoth Mine. All are nonagency stations and are without population with the exception of Mammoth, whose population is reported as 50 persons. Mammoth Junction is located on the applicants'

Eureka branch, Mammoth is adjacent to U. S. Highway 6-50, about 1 mile from the station of Silver City on the applicants' Silver City branch, and Mammoth Mine is served by an 18-foot oil roadway and is about $1\frac{1}{2}$ miles from U. S. Highway 6-50 and about 3 miles from the station of Silver City. While common-carrier bus and truck service is available at Mammoth, no such service is available at Mammoth Mine.

Mining is the principal, if not the only, industry in the territory adjacent to the line. The property of the Mammoth Mining Company is located at the end of the line. Other mining interests in the vicinity have not been worked in recent years.

No bridge or passenger traffic is handled on the line and no local freight has been handled thereon since 1955. Freight moving between points on the line and points beyond for the years 1953 to November 1957, in order, has consisted of ore and coal as follows: 50, 42, 12, 40, and 12 carloads. Less-than-carload freight for the same period was 2,725, 2,361, 699, 2,356, and 734 tons, respectively. During the 3 years prior to 1953 only 1 carload, a shipment of coal, was handled over the line.

The results of operating the line during the years 1953 through the first 5 months of 1957, in order, were as follows: System operating revenues, \$2,877, \$2,801, \$677, \$2,561, and \$434, of which \$119, \$130, \$34, \$127, and \$22 were assigned to the branch; operating expenses, including taxes incurred on the line, \$14,723, \$4,873, \$7,723, \$10,454, and \$2,616; cost of moving traffic beyond the line on other system lines, on the basis of 50 percent of the revenues assigned to the system, \$1,379, \$1,336, \$322, \$1,217, and \$206; net system loss \$13,225, \$3,408, \$7,368, \$9,110, and \$2,388.

Opposition of shipping interest:- The protestant is now, and has been for more than 60 years, the owner of a group of patented mining claims in the Tintic Mining District. Its business is limited to mining and the shipment of ores from its properties.

It controls approximately 700 acres of mining properties, of which 80 percent has not been explored. The investment of the protestant in the mining property serviced by the branch is reported as \$632,540.

The protestant states it has agreed to ship 1,000 tons per month to a smelting plant, but refusal by the applicants to furnish service has resulted in no traffic whatsoever since January 16, 1958. While the amount of traffic is stated to be as represented by the applicants, the protestant contends that its shipments could now be increased to 900 to 1,000 tons or 16 to 18 carloads per month. The decrease in shipments in 1957 is explained as being caused by fire damage to service buildings at the mine.

The protestant's principal objection to the proposed abandonment is a lack of other routes available to it for shipment of ores and a lack of loading facilities on the applicants' line. It states that, should trucking of the ores be required, it would necessitate trucking for approximately 70 miles to smelters in Salt Lake Valley, incurring additional costs. Such costs would result in an estimated expense of \$25,000 for a truck and construction of bins at the mine to enable truck loading.

The protestant's estimate of additional costs are as follows: Trucking to smelter \$5 per ton; loading ramps, if made available at Tintic Junction, \$2 per ton; and loading ramp at milepost 3.20, on the Mammoth branch, \$1 per ton.

It is the protestant's opinion that all its shipments would be stopped, as the increased trucking costs would be prohibitive on low-grade ores. It requests that the proposed abandonment and discontinuance of service be postponed while shipments of 900 to 1,000 tons per month are being made or that consideration be given to the abandonment of about 2.13 miles of the line and that applicant furnish loading facilities at milepost 3.20.

Other factors which the protestant believes pertinent are the inflationary costs of labor and supplies while the price of

gold has been maintained at a set level. The mine maintained a record production until 1946 when curtailment was enforced due to rising costs. The protestant reports it is stated in mining circles that an increase in the price of gold is possible in the near future, which could result in greater activity as it would make mining of ores already developed a profitable venture.

Reply of Applicants:- Because of the existing condition of the track and terrain, service over the branch for several years past has been impossible during winter months due to snow. However, during the winter of 1957-1958, it was possible for the applicants to move cars in and out, it having been an "open" winter. During the period September 1, 1957, to January 22, 1958, 7 cars of ore had been moved over the branch for the protestant. This included 2 loaded cars moved out for which 2 empty cars were taken in on the latter date. Thereafter, due to intervening storms, there was a considerable covering of snow over the line and the protestant was advised that it was unsafe and impossible to move equipment under such conditions. The applicants state that they have never refused service over the branch, but, when such conditions as here mentioned exist, they have been compelled to delay service. As soon as conditions warranted and movement was possible, service had been made.

Should the lower section of the branch be continued in operation, 1.61 miles from Mammoth Junction to milepost 3.20 as suggested by the protestant, it would require complete rehabilitation, including considerable grading, cut widening and bank restoration, as well as complete relay of rail, fittings, and ballasting of track. Applicants estimate it would cost \$96,045 to bring the segment of trackage up to branch-line standard. Maintenance costs thereafter would approximate \$6,500 per annum.

Three loading docks are available for the handling of ores from the Mammoth Mine by truck. These are located on the Eureka branch and are 3.1 miles, 4.1 miles, and 4.5 miles, respectively,

by highway from the mine. All are within the Tintic switching district and one dock is stated to be closer by highway to the mine than Tintic Junction itself. Should it develop that the present ore loading docks are unable to handle the protestant's shipments, the applicants are willing to construct such facilities as are required at any convenient point on its main line or along the Eureka branch.

For the past 10 years the applicants have withheld the proposed abandonment on the representations of protestant that traffic would materialize. They believe that the protestant's claim of shipping 900 to 1,000 tons per month amounts to nothing more than another expression of hope of increased activity without concrete evidence that such volume will actually be shipped. Regardless, they claim, such an amount of traffic would not justify the expenditures for rehabilitation and maintenance of the entire branch or the segment suggested.

Conclusions and findings:- The record in this proceeding justifies the conclusion that, if the branch or a portion of it is to remain in operation, large expenditures would be required for rehabilitation with substantial annual maintenance charges. Operation of the line has resulted in losses for many years and there is no reasonable expectation that sufficient traffic will be provided in the future to overcome such losses. During the years 1952-56, an annual average of but 26.6 cars and 1,498.8 tons of ore outbound were shipped over the line and an annual average of but 2.2 cars and 129 tons of inbound carload freight was handled. Less-than-carload shipments averaged under one a year. While the protestant represents it would increase shipments of from 900 to 1,000 tons per month if the trackage were to remain and service continued, there is no evidence of record to support the statement. On the contrary production at the mine has been curtailed since 1946.

The present loading racks are but short distances from the mine and the applicants have expressed a willingness to provide additional racks to meet the needs of the protestant. In our opinion the shipper's needs can be adequately met by truck transportation. The fact that such means of transportation will result in additional costs to the shipper should not require the applicants to operate at a loss to insure lower transportation costs to the shipper.

The economic factors which, the protestant contends, explain its failure to maintain record production and the resultant failure to provide sufficient traffic to the carriers do not afford a basis upon which denial of the proposed abandonment can be predicated. There is no obligation upon the applicants to continue to operate the branch at a loss and thus subsidize the protestant.

In the light of the foregoing, we conclude that continued operation of the branch, or of a portion of the branch as urged by the protestant, would impose an undue and unnecessary burden upon the applicants and upon interstate commerce.

We find that the present and future public convenience and necessity permit abandonment by the Los Angeles & Salt Lake Railroad Company and abandonment of operation by the Union Pacific Railroad Company of the branch line of railroad in Juab County, Utah, described herein. An appropriate certificate will be issued, effective from and after 40 days from its date of service, in which suitable provisions will be made for the cancellation of tariffs and the submission of journal entries.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 4,
held at its office in Washington, D. C., on the 21st
day of May, A. D. 1958.

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Investigation of the matters and things involved in this proceeding having been made, modified procedure having been ordered, and said division, on the date hereof, having made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity permit abandonment by the Los Angeles & Salt Lake Railroad Company and abandonment of operation by the Union Pacific Railroad Company of the branch line of railroad in Juab County, Utah, described in the report aforesaid;

It is ordered, That this certificate shall take effect and be in force from and after 40 days from the date of its service. Tariffs applicable to the line may be canceled upon notice to this Commission and to the general public by not less than 10 days' filing and posting in the manner prescribed in section 6 of the Interstate Commerce Act;

It is further ordered, That, when filing schedules canceling tariffs applicable to said line of railroad, the Union Pacific Railroad Company shall in such schedules refer to this certificate by date and docket number; and

It is further ordered, That, if the authority herein granted is exercised, the Los Angeles & Salt Lake Railroad Company shall submit for the consideration and approval of this Commission two copies of the journal entries showing the retirement of the line from service.

By the Commission, division 4.

HAROLD D. McCOY,

(SEAL)

Secretary.