

Decision No. 15056

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PENINSULAR RAILWAY COMPANY, a corpor- )  
ation, to abandon certain of its ) Application No. 9951  
franchises and tracks in and about )  
the City of Palo Alto, California. )

William F. James for Applicant ,  
Norman E. Malcolm, City Attorney, for City of  
Palo Alto,  
W. Towers, Chairman, Transportation Committee,  
Ravenswood Chamber of Commerce, for  
Ravenswood School District, Protestant,  
G. C. Kenyon for Palo Alto Chamber of Commerce,  
J. E. Stubbe, Secretary, Ravenswood Chamber of  
Commerce, Protestant.

BY THE COMMISSION -

O P I N I O N

ORIGINAL

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing it to abandon its service and the franchises under which its street railway system in the City of Palo Alto is operated insofar as same is operated in the territory lying northerly of the Southern Pacific Company's tracks, and to remove therefrom its tracks and equipment.

Public hearings on this application were conducted at Palo Alto on May 13, 1924, and June 8, 1925, the matter was duly submitted and is now ready for decision.

Applicant alleges that the tracks herein proposed to be abandoned were established under the conditions as contained in the following described franchises, permits or agreements, all of said tracks being laid on streets lying northerly of the railroad tracks of the Southern Pacific Company:

- I. Under Ordinance No.94 of the Town of Palo Alto granting to John F. Parkinson under date August 15, 1903, authority to construct a street railway line over University Avenue between the Southern Pacific Company's tracks and the northerly city limits as the same existed in 1903, and also over Waverly Street from University Avenue to Embarcadero Road.
- II. Under an agreement under date January 8, 1912, between Peninsular Railway Company and Timothy Hopkins, authorizing the construction of a street railway line on University Avenue from the corporate city limits as the same existed in 1903, to San Francisquito Creek.
- III. Under the permit of the Board of Supervisors of the County of Santa Clara dated August 17, 1912, and the order of the Railroad Commission as contained in its Decision No.264 as decided October 7, 1912, authorizing the construction of a line of street railway across the Embarcadero Road over the easterly extension of Waverly Street.
- IV. Under the agreement of Alfred Seale et al. and Peninsular Railway Company dated August 9, 1912, covering the construction of a line of street railway over the extension of Waverly Street easterly from Embarcadero Road to a point 4700 feet more or less therefrom.
- V. Under the permit of the Board of Trustees of the Town of Palo Alto granting to Peninsular Railway Company under date October 4, 1906, the right to construct a street railway line over Emerson Street from University Avenue to Hawthorne Street and over Hawthorne Street from Emerson Street to a point thereon 22 feet northerly from the northerly line of Alma Street.

Applicant further alleges that the municipal authorities of the City of Palo Alto have made certain demands upon it for paving, re-paving and track reconstruction, said demands being fully set forth in Palo Alto City Ordinance No.246 dated November 13, 1922, a copy of said ordinance being attached to the application herein; that to comply with the provisions of said ordinance, if seven inch girder rail construction were to be made, would require an expenditure estimated at \$271,869, and if nine inch girder rail construction were to be made would require an expenditure estimated at \$437,680.33; that applicant has no funds with which to finance the paving, re-paving and

reconstruction work called for by the provisions of Ordinance No.246 of the City of Palo Alto; that applicant has no ability to borrow said sums required to comply with the provisions of the ordinance for the reason that it has no means of paying interest thereon except from its earnings, and that as neither the Palo Alto street car system or the system of the applicant as a whole pays operating expenses there are no earnings.

Applicant further alleges that even if it were able to borrow money for the improvements required by Ordinance No.246 of the City of Palo Alto that eight per cent would be a reasonable interest rate therefor, and that interest at such rate would amount to \$21,749.52 per annum, an amount approximately the gross annual receipts of the Palo Alto City Line System; and that such interest payment if added to the present annual loss as reflected by applicant's annual statement for the year 1923 would increase the operating loss on the Palo Alto System from \$3,185.62 to \$24,935.14, thereby increasing applicant's operating loss on its entire system from \$8,538.48 to \$30,288, and would increase the net deficit for the 1923 operation of its entire system from \$377,737.77 to \$399,486.69; that applicant's total deficit as of December 31, 1923, was \$3,438,107.63; and that applicant since the commencement of its business has at no time been able to pay a dividend.

Applicant further alleges that not only should it not be required to further improve its Palo Alto City System but that neither public convenience or necessity requires the further operation of the system.

At the first hearing on this application, applicant presented exhibits showing in detail its revenue, expenses and financial condition for the calendar years 1920 to 1923, inclusive, and for the three months ending March 31, 1924; also a statement of revenue accruing from the operation of its

Palo Alto City Lines for the years 1914 to 1923, inclusive; also traffic checks showing the travel on the Palo Alto City Lines. At the first hearing on this proceeding the showing of applicant was the only matter presented the representatives of the City of Palo Alto desiring time in which to examine and study the exhibits of applicant before cross examination and affirmative protest, and an adjournment was taken to permit such study.

The City of Palo Alto, by its City Attorney, under date June 3, 1925, filed herein its consent to the granting of the application provided that certain details relative to the manner in which tracks should be removed were complied with by applicant.

At the adjourned hearing held at Palo Alto on June 8, 1925, protest against the suspension of service and abandonment and removal of the tracks was entered by representatives of the community of Ravenswood, an unincorporated section of San Mateo County, adjoining the easterly boundary of the City of Palo Alto. This community has heretofore received service from the University Avenue Line of applicant, patrons walking to and from the end of the line at its terminus at San Francisquito Creek, the boundary line between the City of Palo Alto and San Mateo County.

At the hearing it was stipulated by applicant that it would, if the application be granted, agree to comply fully with the terms and conditions desired by the municipal authorities of the City of Palo Alto as regards the manner in which the tracks would be removed, and also that the applicant would operate automobile bus service for a period of one year under certain agreed conditions in lieu of the street railway service heretofore operated. This stipulation disposes of the protest of the City of Palo Alto and will also remove the protest of the community at Ravenswood inasmuch as substantially the same service will hereafter be available to that community as formerly

was enjoyed by them from the facilities afforded by the street railway operation.

After full consideration of all the evidence and exhibits herein, we are of the opinion and hereby find as a fact that the continued operation and maintenance of the street car system of the applicant in the City of Palo Alto and <sup>in</sup> the territory lying northerly of the Southern Pacific Company's tracks is not justified by the public convenience and necessity; that the substituted automobile bus service as agreed to between the applicant and the City of Palo Alto will furnish reasonable and adequate service; that the stipulation as to the detail of track removal as agreed to between applicant and the municipal officials of the City of Palo Alto and as to the substitution of automobile bus service in lieu of the street car service heretofore operated should be approved and made a condition of the order herein; and that with such approval of the stipulation the application should be granted.

O R D E R

Public hearings having been held in the above entitled application, the matter having been duly submitted and the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that applicant, Peninsular Railway Company, a corporation, be and it hereby is authorized to suspend street car service, and to abandon and remove its street car tracks and appurtenances in the City of Palo Alto over all streets lying northerly of the Southern Pacific Company's tracks in said city; provided, however, that the removal of the tracks shall be done in a manner satisfactory

to the City Engineer of the City of Palo Alto and in accordance with the terms of a stipulation of record in the hearings hereon, the terms of said stipulation being as follows:

- I. University Avenue Section from Marlowe Street to Creek.  
Applicant to take out ties and rails but not to do any paving.
- II. University Avenue from Cowper Street to Marlowe Street.  
Applicant to take out rails, resurface, macadamize and oil. Ties not to be removed.
- III. University Avenue from Southern Pacific Railroad to Cowper Street.  
Applicant to remove ties, rails and pavement between tracks and for two feet on each side, but not to repave.
- IV. Emerson Street from University Avenue to Lytton Avenue.  
Applicant to take out rails but to leave ties, then to resurface pavement using new asphaltic materials where necessary.
- V. Emerson Street and Hawthorne Avenue from Lytton Avenue to the Car Barn.  
Applicant to remove ties and rails and re-macadamize and oil.
- VI. Waverly Street from University Avenue to Oregon Avenue.  
Applicant to remove ties and rails and re-macadamize and oil.
- VII. From southwest line of Alma Street to northeasterly line of Circle.  
Applicant to remove ties and rails and to resurface pavement using new asphaltic materials where necessary.

All trolley wires, poles and overhead material to be removed and repairs to be made to the streets around pole holes, anchors, etc., whenever necessary.

All macadamizing and repaving to be done by applicant in accordance with original specifications and to the satisfaction of the City Engineer of the City of Palo Alto.

IT IS HEREBY FURTHER ORDERED that applicant at the time of suspension of street railway service as herein authorized shall establish automobile bus service in accordance with the following terms and conditions, same having been originally proposed by applicant in its letter to the Mayor and Council of the City of Palo Alto under date of February 19, 1925, and forming the basis of a stipulation at the hearing on this proceeding:

Applicant to begin the operation of first-class auto busses on the same headway as now made by street cars from the Southern Pacific Station or the Circle and over practically the same route as now used by street cars north or east of Southern Pacific Company's tracks. This service to commence as soon as street cars are discontinued. The rate of fare between Stanford University and the Southern Pacific Station, Palo Alto, on the street cars to be the same as at present, namely - six (6) cents for one-way trip. Rate of fare on auto busses to be ten (10) cents to all persons riding on the busses, passengers to be allowed transfers to the street cars or from the street cars to the auto busses. If transferring from street cars to auto busses, fare to be ten (10) cents. The franchise for auto busses to be limited to the expiration date of the present franchise referred to above (Ordinance 94 of the Board of Trustees of the Town of Palo Alto) which would be August 15, 1953. However, provision to be made that, after one year's operation of auto busses, if the revenue derived from them is not sufficient to pay operating expenses, depreciation on the busses, taxes, and 6% on the investment required it would be left to applicant's discretion whether or not the bus service should be abandoned. The books and records of applicant to be available for inspection, if desired, by the Honorable Council of the City of Palo Alto or to their duly accredited representative.

Applicant herein is hereby required to file with the Railroad Commission within ten (10) days from the date hereof its written acceptance of the terms and conditions by which the authority is hereby conferred for the suspension of street car service, abandonment and removal of tracks and other appurtenances, and substitution of automobile bus service in lieu of the street car service heretofore rendered.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of June, 1925.

H. B. Rounding  
C. Sawyer

George D. Townes  
Francis J. ...  
COMMISSIONERS.