

ORIGINAL

Decision No. 16083.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

CITY OF OAKLAND, a Municipal Corporation,
Complainant,

vs

Southern Pacific Company of Kentucky, et al,
Defendants.

Case No. 1487.

In the Matter of the Application of
WALKER D. HINES, Director General of Rail-
roads, United States Railroad Administration;
SOUTHERN PACIFIC RAILROAD COMPANY, a corpor-
ation, and SOUTHERN PACIFIC COMPANY, a cor-
poration, for an order permitting, requir-
ing and directing the operation on the
Southern Pacific Eighteenth Street electric
line in the City of Oakland of as many more
than two cars per train as will properly
and adequately accommodate the passenger
traffic offered from time to time.

Application No. 5026.

In the Matter of the Application of
SOUTHERN PACIFIC COMPANY for a certificate
of public convenience and necessity for the
exercise by it of franchise granted by
Ordinance No. 3497 N.S. of the City of Oak-
land, and for authority to operate its so-
called Eighteenth Street line in the City
of Oakland, in accordance with said fran-
chise; and for authority to construct,
reconstruct, or relocate such grade cross-
ings as may be necessary in connection with
the exercise of said franchise.

Application No. 12427.

In the Matter of the Application of
SOUTHERN PACIFIC COMPANY for authority to
discontinue ten-minute street car service
on its so-called Eighteenth Street line in
the City of Oakland, in accordance with
Ordinances Nos. 3483 N.S. and 3484 N.S. of
the City of Oakland.

Application No. 12448.

E. J. Foulds, for Southern Pacific Company.
Leon E. Gray, for City of Oakland.
Henry C. McPike, for Webster Street Improvement
Club.

Oliver Zehrlein, for property owners on Webster Street.
Bessie Wood Gustason, for Business Womens Holding Company.
James Rennie, in propria persona.
William Edward Thompson, for Miss Lucy Fay Thompson and David P. Thompson.
W. E. Weilbye, in propria persona.
Alice M. Brookman, for the Y. W. C. A. on Webster Street.
George E. Sheldon, for the Uptown Association.
M. Goldwater, in propria persona.
Charles Quale, for Protesting Property Owners.
R. M. Fitzgerald, for Archon Company, Protestant.

DECOTO, COMMISSIONER:

O P I N I O N

The matters before the Commission in the above entitled proceedings are all closely related and interlocked one with the other. With the consent of the interested parties, they were consolidated for hearing and decision, the hearing being held on February 4th, 1926, at which time the matters were submitted.

Southern Pacific Company is the petitioner in all of the matters now pending in these proceedings, having filed a petition in each proceeding in January, 1926.

In Application No. 12427, filed January 13th, the Southern Pacific Company asks for a certificate of public convenience and necessity for the exercise by it of franchise granted by the City Council of the City of Oakland on January 8, 1926, in Ordinance No. 3497 N.S., and for authority to operate its so-called 18th Street line in the City of Oakland in accordance with said franchise; and for authority to construct, reconstruct or relocate such grade crossings as may be necessary in connection with the exercise of said franchise.

In Application No. 5026, Southern Pacific Company filed, on January 14th, an application for the annulment of the order in

this Commission's Decision No. 8597, dated January 26, 1921, in which order authority to operate 3-car trains over the so-called 18th Street line was denied. This annulment of Decision No. 8597 is requested in order that the railroad company may take advantage of amendments to Section 23 of Ordinance No. 3089 and Section 20 of Ordinance No. 3205, which amendments were passed and adopted by the City Council of the City of Oakland on December 28, 1925, and became effective on December 31, 1925. These amendments grant to the railroad company the right to operate 3-car trains, the cars of which are to conform to those specified in this Commission's Decision No. 15175, dated July 13, 1925 (Case No. 1487). The original ordinances limited the number of cars per train to two and covered that portion of the so-called 18th Street line from 14th and Franklin Street Station to the 16th Street Station via Franklin Street.

In Case No. 1487, Southern Pacific Company filed, on January 14, 1926, a petition for a modification of Decision No. 15175, dated July 13, 1925, in order to permit Southern Pacific Company to operate its so-called 18th Street line in conformity with Section 16 of franchise granted by Ordinance No. 3497 N.S., duly passed and adopted by the City Council of the City of Oakland on January 8, 1926. Said Section 16 of Ordinance No. 3497 N.S. permits the Southern Pacific to operate trains of three cars of a type and size authorized in said Decision No. 15175 but also permits that when additional sections of such trains are necessary such additional sections may consist of trains of not more than three cars of the type now operated under the franchise granted by Ordinance No. 3089.

Said Section 16 and Ordinance No. 3497 N.S. cover that portion of the trackage from 2nd and Webster Streets to Twentieth

and Franklin Streets including trackage proposed to be jointly operated with Key System Transit Company on Webster Street from 14th Street to 20th Street and the ordinance and section thereof under which certificate is requested under Application No. 12427.

In Application No. 12448, Filed on January 19, 1926, Southern Pacific Company requests authority to discontinue the operation of the street car service on the so-called 18th Street line between Sixteenth Street Station and Fourteenth and Franklin Street Station. The Council of the City of Oakland on December 28, 1925, passed and adopted Ordinances Nos. 3483 N.S. and 3484 N.S. repealing Section 3 of Ordinances Nos. 3089 and 3205, respectively, the repeal of said Section 3 becoming effective on December 31, 1925. Said Section 3 required that cars for passengers must be operated over said street railroad between the hours of 7 A. M. and 9 P. M. of each day, at intervals of not more than ten minutes and between the hours of 9 P. M. and 12 P. M. of each day at intervals of not more than twenty minutes.

Referring first to Application No. 12427; the certificate desired by Southern Pacific Company therein, is for the exercise by it of a franchise (Ordinance No. 3497 N.S.) over the route authorized by this Commission in Decision No. 14618, dated March 4, 1925, (Case No. 1487) as a substitute for the present route via Franklin Street from 14th Street to 20th Street which, in the same decision, the railroad company was authorized to discontinue. Very voluminous testimony was taken at the hearings in Case No. 1487 on which said Decision No. 14618 was based and nothing new or to the contrary was offered in evidence by the protestants at the hearing held on February 4, 1926, which would show that the position taken by the Commission in Decision No. 14618 should be modified. It therefore appears that the application of

Southern Pacific Company for a certificate of public convenience and necessity should be granted.

Southern Pacific Company also requests authority in Application No. 12427 for permission to construct or reconstruct the necessary grade crossings involved in the exercise of the above franchise. It was testified by Southern Pacific Company's witness that the crossings involved over the new route would not be substantially different from those on the existing route and would not involve any greater hazards and in fact at 14th Street, would be less hazardous as trains and cars would be moving directly across the street intersections at Webster Street instead of swinging through the arc of a curve diagonally across the intersection as is now done at Franklin Street. It appears that the application to construct these crossings should also be granted.

In Application No. 5026, Southern Pacific Company seeks an annulment of Decision No. 8597 in order that the railroad company may take advantage of amendments to Section 23 of Ordinance No. 3089 and Section 20 of Ordinance No. 3205, which amendments allow of the operation of trains of three cars of a type specified in Decision No. 15175, dated July 13, 1925, (Case No. 1467). Ordinance No. 3497 covering that portion of the line from near First and Webster Streets to 20th and Franklin Streets via Webster and 20th Streets, grants permission to operate three car trains of the above described type. With the disposal of the block of property at 14th and Franklin Streets no convenient location will exist in which to break up trains of three cars into trains of a lesser number of cars in case Decision No. 8597 is allowed to remain in force over that portion of the trackage from Franklin Street to the Sixteenth Street Station. In fact the act of breaking up such trains would cause congestion of

traffic and considerable public inconvenience and slowing up of service, if such act took place in the city streets. Testimony by witness for Southern Pacific Company shows that two cars of the large type now operated on the so-called 18th Street line hold some twenty more passengers than three cars of the narrower type specified in Decision No. 15175. The operation of three car trains of the larger type of car, as additional sections of train during the peak hours or on such occasions as may require, a greater seating capacity than that afforded by trains of the three smaller type cars should not greatly inconvenience street traffic as such peak hours of train operation in general occur before or after other street traffic is at its daily maximum intensity. Operation of the large cars is necessary at present under Decision No. 14618 which required Southern Pacific Company to furnish before June 30, 1926, seven cars of the narrow type, enough for three two-car trains, not quite equivalent in capacity to two trains of two cars of the large type, and which permits operation of the large type of car when exigencies of the service demand such operation. It, therefore, appears reasonable and in the public interest to allow of the operation of trains of three cars of the narrower type specified in said Decision No. 15175 over this whole route in accordance with the wishes of the City of Oakland as set forth in the amended Ordinances. The order will so provide.

In Case No. 1487 Southern Pacific Company requests a modification of Decision No. 15175 in order that three car trains may be operated as hereinbefore set forth. Said Decision No. 15175 limits the trains to two cars, which was in conformity with the original ordinances. There appears to be no further points to be covered in this application under Case No. 1487, which have not already been touched on in the foregoing sections of

this opinion and in conformity with the conclusions set forth therein it is recommended that this application of defendant Southern Pacific Company be granted in order that the decision of the Commission in this proceeding may be made to conform to the conclusions arrived at in those other proceedings already discussed and with which it is closely related, if not an actual part.

In Application No. 12448, Southern Pacific Company, as already stated, desires to discontinue the operation of its street car service on the so-called-18th Street line between 16th Street Station and 14th and Franklin Streets.

Evidence offered by Southern Pacific Company shows that for the year 1924 the revenue from the "Dinky" or small street-cars amounted to \$14,384.00; that Wages amounted to \$20,765.34 and Estimated Power consumed amounted to \$6,599.68, which shows a deficit of \$12,981.02 for the year based on wages and power alone and not taking into account other items such as maintenance of equipment, interest on investment, etc. Southern Pacific Company proposes that this street car service be performed by the larger cars operated to Oakland Pier and which stop at certain fixed points instead of at every street intersection. These large cars now do a portion of the local business between 16th Street and 14th and Franklin Streets and intermediate points. Protestants claim that the small street cars have never had a chance to pay their way on account of the larger cars performing a competing service over the same territory but it appears more likely that the chief reason for the failure to attract patronage would be due to the short length of the line and its lack of transfer privileges as compared to such privileges offered by the competing lines of the Key System Transit Company via 16th, 14th and 12th Streets. Public convenience and necessity do not appear to require that two

practically identical services be operated over this line, with two different sets of equipment, and it is recommended that the application be granted.

O R D E R

Southern Pacific Company having filed applications with the Commission for certain orders under the above numbered and entitled proceedings, as set forth in the above Opinion, a public hearing having been held, the Commission being apprized of the facts, the matters being under submission and ready for decision;

IT IS HEREBY DECLARED that public convenience and necessity require the exercise by Southern Pacific Company of franchise granted by Ordinance No. 3497 N.S., passed and adopted on January 8, 1926, by the City Council of the City of Oakland.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Southern Pacific Company for the exercises of said franchise granted by said Ordinance No. 3497 N.S.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be and it is hereby authorized to operate its so-called Eighteenth Street line in accordance with the terms and conditions set forth in said Ordinance No. 3497 N.S.

IT IS HEREBY FURTHER ORDERED that permission and authority be and it is hereby granted to Southern Pacific Company to construct its so-called 18th Street line at grade across Franklin Street and Twentieth Street at and/or near the intersection of Franklin and Twentieth Streets, across a portion of Webster Street near Twentieth Street, across Fourteenth and Thirteenth Street in Webster Street and across Second Street and a portion of Webster Street at the intersection of Second and Webster Streets, and to

reconstruct and to operate over existing crossings of Nineteenth, Seventeenth and Fifteenth Streets, all in the City of Oakland, County of Alameda, State of California, as shown by the map (East Bay Division Dwg. 3583, Case M-47) attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed substantially in accordance with Standard No. 4, as specified in General Order No. 72 of this Commission and shall be constructed of a width to conform to those portions of said streets now graded, with the tops of rails flush with the pavements, and with grades of approach not exceeding one (1) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(4) If said crossings shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

IT IS HEREBY FURTHER ORDERED that this Commission's Decision No. 8597, dated January 26, 1921, be and it is hereby rescinded and that Application No. 5026 be and it is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be and it is hereby authorized to operate its so-called Eighteenth Street line in accordance with Ordinances Nos. 3483 and 3484 N.S. amending Ordinances Nos. 3089 and 3205 respectively.

IT IS HEREBY FURTHER ORDERED that this Commission's Decision No. 15175, dated July 13, 1925, (Case No. 1487) be and it is hereby modified to permit of the operation in accordance with Section 16 of Ordinance No. 3497 N.S. by Southern Pacific Company over the lines involved in said proceeding, of trains of not more than three cars of the type and size described in said Decision No. 15175 except that when additional sections of such trains are necessary over and above the normal and regular cars or trains operated in such service, such additional sections may consist of three cars of the type now and heretofore operated in such service. Any provisions of said Decision No. 15175 which may conflict with said Section 16 of Ordinance No. 3497 N.S. be and they are superseded hereby.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be and it is hereby authorized to discontinue ten-minute street car service on its so-called Eighteenth Street line in the City of Oakland, provided, however, that Southern Pacific Company shall continue to render local street railroad service along said

Eighteenth Street line by means of its trains operating through to Oakland Pier, stopping at intervals spaced approximately five (5) to the mile.

For all other purposes this order shall become effective twenty (20) days from the making thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of March, 1926.

H. B. Brundage

Charles

Ernest

Leon

Commissioners.