

Decision No. 17743

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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CITY OF OAKLAND, a municipal corporation,)
)
Complainant and Petitioner.))
)
vs.)
)
SOUTHERN PACIFIC COMPANY, a corporation,)
)
Defendant.)
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ORIGINAL

Case No. 1536.

- Leon E. Gray, for the City of Oakland.
- E. J. Foulds, for Southern Pacific Company.
- J. Allison Bruner, for City of San Leandro.
- George E. Sheldon, for Uptown Association of Oakland.
- T. P. Wittschen and Ralph Hoyt, for County of Alameda.
- E. W. Hollingsworth and Bishop and Bahler, for Traffic Bureau of the Oakland Chamber of Commerce.
- Charles E. Seccombe, for the East Side Board of Trade.
- J. P. Thompson, for the Elmhurst Community Club.
- Wilbur Walker, for the Merchants' Exchange of Oakland.
- W. J. Locke, for the City of Alameda.
- Oliver Kehrlein and E. C. McPike, for Webster Street Improvement Association.

DECOTO, COMMISSIONER:

O P I N I O N

In this proceeding, filed as a formal complaint on February 21st, 1921, the City of Oakland, Complainant, requests an order from this Commission requiring Southern Pacific Company, Defendant, to do three things, namely:

- (1) Require the construction and installation of a curve connecting the Seventh Street line with the Webster Street line;
- (2) For a reduction of fares charged to the passengers on the Seventh Street line to points east of Havenscourt; and
- (3) For such other relief as may be meet and proper in the premises.

Public hearings were held in this matter on June 20th and 21st and on July 29th, 1921, before former Commissioner Martin. The case was submitted on briefs at the latter hearing. On January 29th, 1926, the matter was re-opened for further hearing by order of the Commission. Further hearings were held on March 31st, and April 1st, 1926.

Defendant, Southern Pacific Company, operates, as part of its East Bay Electric Division of Oakland, Alameda and Berkeley Electric Lines, an electric railway from Oakland Mole via Seventh Street, private right-of-way, Bond Street, Beck Street, Blanche Street and Bancroft Avenue to Dutton Avenue in San Leandro. The route from Bond Street to Bancroft Avenue is interspersed with short lengths of private rights-of-way. Defendant, Southern Pacific Company, also operates, as part of this division of electric lines, a line from Oakland Mole to 14th and Franklin Street via Sixteenth Street Station, 18th Street, 20th Street and Franklin Street. West-bound cars or cars operating from Fourteenth Street to the Oakland Mole operate over 21st Street and Jones Street instead of over Twentieth Street.

At the time this complaint was filed service was also given from 14th and Franklin Street to Alameda Pier via Webster Street and the Harrison Street Swing Bridge to Alameda Pier and thence by boat to San Francisco. At that time local street car service was also in effect between Alameda and Sixteenth Street Station, Oakland, via Webster, 18th and 20th Streets. The services between Oakland and Alameda via the Harrison Street Bridge was discontinued on December 27th, 1923, under authority granted in Decision No. 12906, dated December 7th, 1923, (Case 1911). Under Decision No. 14618, dated March 3rd, 1925, (Case 1487), Southern Pacific Company was authorized to dispose of its terminal facilities and land at 14th and Franklin Streets and to relocate its service, now on Franklin Street extending from 13th and Webster to

20th and Franklin, one block easterly to Webster Street. Under Decision No. 16083, dated March 8th, 1926, (Application No. 12448), permission was granted Southern Pacific Company to discontinue the operation of ten-minute street car service on its so-called Eighteenth Street line between 14th and Franklin and 16th Street Station, provided the company should continue to render local street railroad service along said Eighteenth Street line by means of its trains operating from 14th and Franklin Street via 18th Street through to Oakland Pier, stopping at intervals spaced approximately five to the mile. Under the same decision the Commission granted Southern Pacific Company the right to construct the necessary crossings from 2nd and Webster Streets to 20th and Franklin Streets to operate its Eighteenth Street line in accordance with Ordinance No. 3497 N.S., adopted by the Oakland City Council December 30th, 1925. This ordinance is for a double track street railway and runs for eighteen years. At the time the pending proceeding was filed the tracks in Webster Street were operated under Ordinance No. 855 (Complainant's Exhibit No. 9) which expires in 1930. On June 29th, 1926, the Commission made its Decision No. 17028 (Application No. 12934) permitting joint use of tracks on Webster Street from Sixth Street to Twentieth Street by Key System Transit Company and Southern Pacific Company.

In addition to the above changes in service by Southern Pacific Company since the beginning of this proceeding, certain other service has been added by the Key System Transit Company in the district served by the Seventh Street line of Southern Pacific Company. The Sixteenth Street car line of the Key System formerly terminated at 55th Avenue, but now extends to Fleming Avenue in Maxwell Park north of Trask Street and west of 55th Avenue. A bus line is also being operated from near Trask and 55th Streets along Foothill Boulevard to 96th Avenue and thence south to East Fourteenth Street. A bus line has also been placed in operation from East

Fourteenth Street and Seminary Avenue to Trevor Avenue, thence east on Trevor to Seventy-third Avenue and south on Seventy-third Avenue to East Fourteenth Street.

On the Seventh Street line the Southern Pacific now breaks its trains throughout most of the day at Seminary Avenue, a portion of the train continuing on to Dutton Avenue. The portion turned back at Seminary Avenue picks up westbound car of previous train, thus eliminating lay-over delays. At the time this complaint was filed in 1921, a shuttle service was operated from Havenscourt to Dutton Avenue except for certain through trains during peak hours of travel. This shuttle service entailed delays and was considered unsatisfactory by the city.

Complainant, City of Oakland, introduced evidence showing the growth of the territory served by the Seventh Street line beyond Fruitvale and Melrose.

At the hearing held on June 20th, 1921, (Page 279 of Transcript) it was testified that only 82 houses were built in Broadmoor Subdivision, which lies between East 14th Street and Foothill Boulevard and Stanley Way and Dutton Avenue, from about the time it was placed on the market in the year 1907 up to the year 1919, while during each of the years 1919 and 1921 half that number were built and in the year 1920 alone more than that number.

The testimony shows (Page 298 of Transcript and Complainant's Exhibit No. 4) that Complainant, in June, 1921, estimated the population of that portion of Oakland northeast of 14th Street and east of 55th Avenue and that portion of San Leandro north of East 14th Street and west of 7th Avenue at 10,625, based on registration in 13 precincts. Buildings constructed in this territory from January, 1910, to June, 1921, are shown on Complainant's Exhibits Nos. 5 and 6, to number 990.

At the hearing held on March 31st, 1926, witnesses for Complainant showed that the population of eight precincts east of

73rd Avenue, north of East Fourteenth, south of Foothill Boulevard and west of Stanley Avenue, the eastern boundary of the City of Oakland, based on the registration figures of October, 1924, amounted to 9,595 persons; and, that the number of buildings constructed in those precincts from January, 1921, to April, 1926, consisted of 2,808 residences and 2,945 other structures, of which 785 were additions or alterations and repairs. The above figures indicate that the population of the district served by the Seventh Street line, east of 55th Avenue, has substantially increased probably to the extent of forty or fifty per cent in the last five years (or at the rate of 8 or 10 per cent per year).

The testimony shows that the installation of a fast express service could not be undertaken with any degree of success on the East 14th Street line of the Key System Transit Company, due to the extensive local street car service on the same tracks. All parties are equally in accord on this subject. Fast express service is not rendered and cannot be expected from the Key System's existing bus lines, due partially to the inability to gauge connections of busses with connecting street car lines, and partially to the congested street traffic conditions. A fast express service, between the heart of the City of Oakland and the district in East Oakland and San Leandro served by the Seventh Street Line, is a public convenience and necessity, but it does not appear feasible to try to render such service on heavy traffic streets or with street cars stopping at every block or even at alternate blocks. No other agency but the Southern Pacific Company has the facilities for giving a reasonably fast service with a small number of stops to the mile. Since such a service appears to be a public necessity for this portion of the City of Oakland, it only remains to be shown whether, under the existing franchises, such a service can be required of the Southern Pacific by this Commission.

The installation of curves at Seventh and Webster Street, as petitioned for by the City of Oakland, is physically feasible and could be readily accomplished as the Southern Pacific Company owns the property on the corner embraced by the curves.

The Southern Pacific Company introduced testimony showing that approximately 3600 people use the existing local service daily in each direction between Broadway and Dutton Avenue. It is reasonable to assume that a more frequent service to the center of the city would increase the patronage.

Southern Pacific Company claims that the prayer of the City of Oakland is a request to compel the Southern Pacific Company to go into a new territory and to build a new track and to undertake a new service and that this Commission lacks jurisdiction in this case. However, from the record in this case, it appears that a service, having the same characters, except as to routing, is at present rendered separately on both the 7th Street and the 18th Street lines by the Southern Pacific Company. With respect to such service on the Seventh Street line, we find in Line 8, page 546 of the Reporter's Transcript in this case, the following quotations from Counsel for Southern Pacific Company, and one of its witnesses:

Mr. Foulds:

"Now, the passengers are carried locally on that train just as if it were a street car to and from the points on that route?"

Mr. Veale:

"Passengers are carried locally from Pine Street to Dutton Avenue locally between any and all stations on the 7th Street line."

With respect to the Eighteenth Street line, it is clearly shown, in Commission's Exhibit No. 1-2 in this proceeding, which covers the testimony given by Mr. F. L. Burckhalter, First Assistant General Manager of the Southern Pacific Company, at public hearing held on February 4th, 1926, in Case 1487 and Applications Nos. 5026, 12427 and 12448, that such service is now given and will continue

to be given on that line.

There is no doubt as to the right of the Southern Pacific Company to operate a local street car service on the so-called Eighteenth Street Line, on Webster Street from Second Street to Twentieth, on Twentieth from Webster to Franklin and on the Seventh Street Line east of Melrose Station, in accordance with existing ordinances, and to operate local service, such as is now operated on Seventh Street from Pine Street as far as Fallon Street. If the company so desired, it has undoubtedly a right to operate a street car service along its right-of-way from Fallon Street to Melrose Station.

Since the Defendant, Southern Pacific Company, has the legal right to render a fast express local service between Dutton Avenue and the business district of Oakland, by way of its so-called Seventh Street and Webster Street Lines, as prayed for by the Complainant; and since this carrier has, in fact, been rendering a local service on each of these two lines but in an inadequate and unsatisfactory manner as to through routing; and, since the evidence in this proceeding clearly shows that public convenience and necessity justify the rendering of such a through local service between Dutton Avenue and the uptown business section of Oakland and that facilities are available for such a service, except for the installation of minor track connections at the intersection of Seventh and Webster Streets; there appears no alternative but for this Commission to direct the Defendant to provide such a track connection forthwith and thereafter render a fast express service between said Dutton Avenue and the uptown business section of Oakland by its so-called Seventh and Webster Street lines.

The Defendant has claimed that it does not have the right, without receiving a new franchise, to construct the connecting spur referred to at Seventh and Webster Streets. From an examination of the franchises under which tracks are now constructed in Seventh

Street and in Webster Street, respectively, I am not satisfied that being under submission and ready for decision,

this contention is correct, but in the event that some further per-

mission is necessary from the City of Oakland, requesting of any

ant herein, be and it is hereby directed to place in operation on or necessary permission from the proper authorities can only be con-

before June 1st, 1927, a local express service between existing sta- tion stops on its Seventh Street line east of Webster Street and piece of track. Such permission, if necessary, is largely of the

existing station stops on its so-called Nineteenth Street line north same nature as the formal permission that will be necessary under a

of Seventh Street to the vicinity of Nineteenth Street and to con- proper application to this Commission to construct grade crossings

construct such track connections between the two said lines at the in- over portions of these streets.

intersection of Seventh and Webster Streets as may be necessary to

Some testimony was also introduced by Complainant as to place such a service in operation.

the necessity of establishing a fast express service between the

IT IS HEREBY FURTHER ORDERED that that portion of this business section of Oakland and the loop lines of Defendant in the

proceeding having to do with a request for an adjustment of rates City of Alameda via the Fruitvale Avenue drawbridge, in addition

be and the same is hereby dismissed.

to the express service to East Oakland already discussed. However,

For all other purposes the effective date of this order I am of the opinion that the route via Fruitvale is too long for a

shall be twenty (20) days from and after the date hereof. satisfactory service. Even with the Webster Street drawbridge out

The foregoing Opinion and Order are hereby approved and of use, sufficient patronage did not develop early last spring to

ordered filed as the Opinion and Order of the Railroad Commission warrant the Southern Pacific Company in keeping its Alameda Horse-

of the State of California.

shoe line on a twenty-minute schedule. It would therefore appear

Dated at San Francisco, California, this 11 day that such a service is not now a public convenience and necessity

of December, 1926,

and should not be established.

Since that portion of this complaint relating to rates is also the subject matter of a more comprehensive rate proceeding now pending before this Commission (Application No. 11504), it does not appear necessary or proper at this time to make any finding with respect to that portion of this complaint and complaint, insofar as it relates to rates, should therefore be dismissed. The following form of order is recommended.

O R D E R

A public hearing having been held on the above entitled proceeding, the Commission being apprised of the facts, the matter

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CORRECTION

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HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

Street and in Webster Street, respectively. I am not satisfied that this contention is correct, but in the event that some further permission is necessary from the City of Oakland, requesting of any necessary permission from the proper authorities can only be considered as an incidental feature to the constructing of this minor piece of track. Such permission, if necessary, is largely of the same nature as the formal permission that will be necessary under a proper application to this Commission to construct grade crossings over portions of these streets.

Some testimony was also introduced by Complainant as to the necessity of establishing a fast express service between the business section of Oakland and the loop lines of Defendant in the City of Alameda via the Fruitvale Avenue drawbridge, in addition to the express service to East Oakland already discussed. However, I am of the opinion that the route via Fruitvale is too long for a satisfactory service. Even with the Webster Street drawbridge out of use, sufficient patronage did not develop early last spring to warrant the Southern Pacific Company in keeping its Alameda Horseshoe line on a twenty-minute schedule. It would therefore appear that such a service is not now a public convenience and necessity and should not be established.

Since that portion of this complaint relating to rates is also the subject matter of a more comprehensive rate proceeding now pending before this Commission (Application No. 11504), it does not appear necessary or proper at this time to make any finding with respect to that portion of this complaint and complaint, insofar as it relates to rates, should therefore be dismissed. The following form of order is recommended.

O R D E R

A public hearing having been held on the above entitled proceeding, the Commission being apprised of the facts, the matter

being under submission and ready for decision,

IT IS HEREBY ORDERED that Southern Pacific Company, Defendant herein, be and it is hereby directed to place in operation on or before June 1st, 1927, a local express service between existing station stops on its Seventh Street line east of Webster Street and existing station stops on its so-called Eighteenth Street line north of Seventh Street to the vicinity of Nineteenth Street and to construct such track connections between the two said lines at the intersection of Seventh and Webster Streets as may be necessary to place such a service in operation.

IT IS HEREBY FURTHER ORDERED that that portion of this proceeding having to do with a request for an adjustment of rates be and the same is hereby dismissed.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

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 11th day of December, 1926.

W. B. ...
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...
...

Commissioners.

STATE OF CALIFORNIA
RAILROAD COMMISSION
SAN FRANCISCO