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Decision No. 18195-

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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S. Carder Smith,)
 Complainant)
 vs.)
 San Diego Electric Railway Com-)
 pany,)
 Defendant)

ORIGINAL

Case No. 2258

S. Carder Smith for Complainant
 Forrest A. Cobb for Defendant.

LOUTTIT, Commissioner:

O P I N I O N

The complaint in this matter as amended alleges that San Diego Electric Railway Company, defendant herein, has not complied with the terms and conditions of Railroad Commission Decision No. 13114, dated February 4, 1924, issued in Application No. 9095. By said decision the defendant company was authorized to abandon certain street car service in the City of San Diego upon a number of conditions, one of which was that the company would place in regular operation in lieu thereof, a bus service over certain designated streets. It was provided in part that such bus service should be conducted over the following described route: "From the intersection of Bacon and Voltaire Streets, easterly on Voltaire Street to Chatsworth Boulevard, and southerly on Chatsworth Boulevard to its intersection with Catalina Boulevard." The

complaint alleges that the company has failed to operate such regular bus service over said route as required by said decision and an order is sought to compel compliance therewith.

A public hearing in this matter was held in the City of San Diego on February 16, 1927, at which time testimony, both oral and documentary was introduced. Thereupon the matter was submitted and is now ready for decision.

At the hearing in this matter attention of the Commission was called to the fact that in the issuance of its Decision 13114 in Application 9095, it had inadvertently erroneously described the route of travel of the so-called "Voltaire Street Bus Line", the route involved in this proceeding, and had described a much longer route than was intended. This fact was evident from a careful examination of the decision and certain correspondence had between H. G. Mathewson, Secretary of the Railroad Commission, and the Chief Counsel for defendant company, shortly after the issuance of said Decision 13114 (See Defendant's Exhibits "B", "C", and "D" herein). It was evident that the said order should have required the regular bus service "from the intersection of Bacon and Voltaire Streets easterly on Voltaire Street to San Clement Street" rather than "from the intersection of Bacon and Voltaire Streets easterly on Voltaire Street to Chatsworth Boulevard and southerly on Chatsworth Boulevard to its intersection with Catalina Boulevard", as in fact described therein.

Subsequent to the hearing in this matter San Diego Electric Railway Company filed with this Commission a formal supplemental application in Application 9095 and sought thereby an order from the Commission correcting the above referred to error in the decision theretofore rendered in the matter. The relief sought was granted, and under date of March 14, 1927, this Commission issued its Decision 18074 altering said Decision 13114 by

redescribing the said Voltaire Street Bus Line as above indicated to conform to the true intention of the Commission. The said Decision 18074 further provided that in all other respects the Commission's previous decision in said matter should remain in full force and effect.

In view of the foregoing facts, it follows that the only issue in this proceeding is whether or not the bus service now being rendered over the Voltaire Street Line, as redescribed in Railroad Commission Decision 18074, is adequate and in compliance with Railroad Commission Decision 13114.

The record shows that for some time past defendant company has maintained a regular daily bus service over said route from approximately 7 a.m. to 7 p.m., and is maintaining such service at the present time. It further appears that the company is rendering no service in the evenings after 7 p.m. and it is in this respect that the complainant contends that the service is inadequate and not a "regular" service in conformity with the Commission order issued in Railroad Commission Decision 13114. It appears that the night service over the line in question was maintained for a brief period at a loss, and that it was discontinued upon authority first obtained from the City Council of the City of San Diego pursuant to the terms of the City Franchise Ordinance under which the particular bus operation is conducted (San Diego City Ordinance 9515, approved June 10, 1924).

It appears that the order contained in Railroad Commission Decision 13114 did not provide for a night service over the particular route in question, and therefore, that the operations of the defendant company in regard to the frequency of service are not in violation of said Decision. Furthermore,

it does not appear that the present service is inadequate or unreasonable. It follows, therefore, that the complaint in this matter should be dismissed and the order will so provide.

The official records of this Commission show that complainant herein, under date of March 30, 1927, and subsequent to the submission of this matter, filed a second amended complaint in said matter, alleging in substance the same facts as were alleged in the first amended complaint. No additional material allegations are made in the second amended complaint, and it therefore appears that it should also be dismissed.

O R D E R

Complaint and amended complaints having been filed by S. Carder Smith against San Diego Electric Railway Company alleging a failure by said Company to comply with certain conditions of Railroad Commission Decision 13114 rendered in Application 9095, a public hearing having been held and the matter submitted, and the Commission now being fully advised in the premises, and of the opinion that said complaint and amended complaints should be dismissed,

IT IS HEREBY ORDERED that the complaint and amended complaints heretofore filed in Case 2258 be and the same are hereby dismissed.

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 7th day of April, 1927.

Commissioners