

Decision No. 18454

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

FERRIS and FERRIS, L. E. DEEM,  
I. B. SLUSS, SCLOSSBERG HARDWARE CO.,  
JOHN CHANTER FURNITURE CO.,  
FRANK BEMAN, and BRADLOR & WOLFF,

Complainants,

vs.

SAN DIEGO ELECTRIC RAILWAY COMPANY,

Defendant.

Case No. 1910

Curtis Hillyer, for Complainants,  
R. G. Dilworth, for Defendant,  
S. J. Higgins, City Attorney, by Stanley T. Howe,  
Deputy City Attorney, for the City of San Diego.

BY THE COMMISSION -

O P I N I O N

Ferris and Ferris, L. E. Deem, I. B. Sluss, Sclossberg Hardware Co., John Chanter Furniture Co., Frank Beman, and Bradlor & Wolff, merchants of the City of San Diego complain of defendant San Diego Electric Railway Company, a corporation, and allege that by Ordinance No. 4526 of the City of San Diego, as approved by the Mayor of said city on September 11, 1911, a franchise was granted to San Diego Electric Railway Company, said franchise expiring on September 1, 1952; that a part of said franchise was for the construction and operation of a street railway on "H" Street (now Market Street) from the intersection of 5th and "H" Streets and thence easterly along said "H" Street to the intersection of "H" Street and 16th Street; that the San Diego Electric Railway Company pursuant to the granting of the aforesaid franchise did construct and is operating a street railway, running cars over "H" Street (now Market Street) since the granting of said franchise; that complainants believe defendant intends to entire<sup>ly</sup> abandon the operation of the street railway on said "H" Street and has practically

abandoned the operating of cars on said street; that the discontinuance of the operation of cars along said street is greatly to the disadvantage of the traveling public, to the detriment of people residing along said street and is ruinous to the value of property and business in that neighborhood.

Complainants pray for an order of the Railroad Commission as to the necessity for the abandonment by defendant of the operation of its street railway on and along "E" Street in the city of San Diego.

Defendant corporation duly filed its answer herein denying that it intends to abandon the operation of its street railway on "E" Street from the intersection of Fifth Street with "H" Street to and including the intersection of "E" Street and Sixteenth Street, or that it has abandoned or discontinued the operation of street railway cars on said street.

A public hearing on the complaint was conducted by Examiner Handford at San Diego, the matter was duly submitted upon the filing of briefs and is ready for decision.

Mrs. Lillian Klein, employed at a bakery at 716 Market Street, San Diego, testified that a recent change in routing whereby certain car lines of the San Diego Electric Railway operated on Broadway in that city, instead of on Market had had a detrimental effect on the receipts of the establishment where she was employed.

Mr. David Sigler, operating a grocery business at 425 Market Street, San Diego, testified the volume of his business was less than when car lines were operating on Market Street, particularly as regards patronage enjoyed from residents of National City.

Mr. Alda M. Ferris, a druggist located at the intersection of Fifth and Market Streets, San Diego, testified that the diversion of the routing of the Logan Avenue, National City-Chula Vista, and Coronado car lines from a route down Fifth Street and along Market Street had resulted in a lessened patronage at his place of business, although admitting that the absence of the naval fleet had a depressing effect on business conditions.

Mr. Roy W. Wolff, a clothing and dry goods merchant, located at the intersection of Fifth and Market Streets, San Diego, testified as to the reduced patronage noticed since the rerouting of car lines formerly operating over Fifth and Market Streets.

Mr. V. L. Wiley, in the general merchandise business at 562 Market Street, Mr. Louis Lasker, gents furnishing and clothing, at 635 Fifth Street; Mr. Lawrence C. Deem, confectioner at 607 Fifth Street; E. L. Thomas, Manager of Metropolitan Hotel at Fifth and Market Streets; Mr. Max Radin, in the clothing business on Market Street; Mr. Frank Berman, gents furnishings and clothing at 555 Fifth Street; Mr. Vincent Russo, manager of a moving picture theater near Fifth and Market Streets; Mr. A. Lofling, in the market and produce business at Eleventh and Market Street; all testified substantially to the effect that their respective businesses had been decreased by the change in routing of cars formerly operated on Fifth and Market Streets; that while some of the decrease of business was attributable to a temporary general depression in San Diego and to the absence of the naval fleet it was their opinion that the diversion of the traveling public to other avenues by the rerouting of cars had been mainly responsible for the decrease in the revenue from their respective businesses.

Mrs. L. Brinton, owning property at the intersection of Fifth and Market Streets, testified that she was obliged to reduce rentals by reason of decreased business of her tenants for which decreased business the car routing was alleged to be responsible; and that some tenants gave up their leases notwithstanding the rent reduction.

Mr. Edward H. Dowell, Secretary of the Federated Trades of San Diego, testified that his office was located at 621 Sixth Street; that there had been considerable complaint from the membership of his organization regarding the rerouting; that it was now more difficult to get a representative attendance at meetings, an additional excuse for non-attendance of members being that they were now compelled to walk four blocks to his office from the present car lines

on Broadway instead of one block as formerly or to transfer to a No.6 car, and the membership generally preferred to walk rather than to transfer for the four block ride.

Mr. Louis Fritz, testifying in behalf of the Germania Hall, stated that the change in routing had made it more difficult to rent the hall for lodge meetings, public lectures and entertainments; that for the past few years it has been increasingly difficult to secure satisfactory rentals for the hall, although same is the regular meeting place for the Order of Herrmann's Sons and its sister organization - the Thusnelda. The witness stated that the additional walk from the Broadway lines was but 600 feet more than formerly required from Market Street, if passengers did not desire to transfer to cars operating on Market Street.

Mr. Dan E. Shaffer, employed as Deputy Tax Collector with office at Third and C Streets, testified that the new routing had required him to walk between his office and Broadway when enroute to or from his residence at Logan Heights, but admitted that transfers were available.

Mr. E. J. Burns, Assistant General Manager of defendant San Diego Electric Railway Company, testified regarding the rerouting of cars on lines formerly operating over Market Street and on Fifth Street between Market Street and Broadway; that such rerouting was a part of the general plan as directed by the Railroad Commission in its Decision No.6836 on Applications Nos.3808, 3809, 5008 and 5009, as decided November 14, 1919; that traffic checks and surveys had been made, the results from same indicating that duplication of service by the operating of cars of several lines on Market Street was not justified; that the majority of traffic was destined to or from points served directly by cars operating on Broadway; that there was no intention to give other than an adequate service to the business community in the vicinity of the intersection of Fifth and Market Streets or to remove tracks or suspend regular car operation on Market Street, but that in compliance with the Commission's

Decision No. 6836 , such rerouting as was beneficial to the general system and all its patrons had been made by diverting the operation of certain lines to Broadway instead of Market Street.

We have given careful consideration to the evidence in this proceeding. The record shows that the routing of cars formerly operating on Fifth Street and on Market Street to Broadway has decreased the number of street car patrons who formerly boarded or alighted from cars at the intersection of Fifth and Market Streets, or who transferred to other car lines at such point. As a result of such rerouting the merchants in an old business district claim their business has decreased due to a smaller number of people visiting such neighborhood by reason of their use of the street cars of defendant and by the fact that the intersection of Fifth and Market Streets was a transfer point of some importance and passengers while waiting for cars made purchases from the stores in the immediate vicinity of said transfer point.

This Commission, on November 14, 1919, issued its Decision No.6836 on Applications Nos.3808, 3809, 5008 and 5009, such decision being based largely upon conclusions resulting from an exhaustive study and investigation into the service, operating conditions, rates and financial status of this defendant. Portions of the order in Decision No.6836 are as follows:

"1. IN THE MATTER OF SERVICE AND OPERATION.

(a) Operating savings through headway changes and by partial or complete elimination of non-paying or duplicate service on certain lines shall be brought about as suggested in the foregoing opinion, and applicants shall file with the Commission and with the City of San Diego immediately, and prior to the putting into effect of such service changes, a statement in detail showing what changes will be made. Similar statements shall also be filed with the authorities of other communities affected by such service changes.

(b) Authority is not given at this time for the abandonment of service and the taking up of track on any of the lines enumerated by the San Diego Electric Railway Company in Application No.5009, and further proof that such abandonment is justified should be submitted by applicant after the other economies and changes authorized in this order have been put into effect."

In the rerouting of cars by defendant the duplication of service on Market Street has been eliminated, the transfer of certain car lines to the Broadway routing having facilitated operation and eliminated delay to passenger traffic originating at or destined to the southerly and southeasterly portions of the City of San Diego, and the operation of the remaining car lines on Market Street, such car lines having transfer privileges to the other lines of defendants street car system, furnishing an adequate service for the public.

No evidence appears herein justifying the allegation that defendants intend to abandon the operation of its street railway on "H" (or Market) Street, or to remove its tracks therefrom, and before such abandonment of operation or removal of tracks may be authorized a proper application must be made to this Commission and be followed by an order granting such application under such terms and conditions as may be justified by the facts in such a proceeding.

The complaint will be dismissed.

ORDER

A public hearing having been held on the above entitled complaint, the matter having been duly submitted on the filing of brief, the Commission being now fully advised and basing its order on the preceding opinion,

IT IS HEREBY ORDERED that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this 14 day of June, 1927.

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*L. B. Brundage*  
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*C. S. Sawyer*  
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*Thos. H. Barrett*  
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COMMISSIONERS.