

Decision No. 13521**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 Los Angeles Railway Corporation, a
 corporation, for an order readjust-
 ing rates and establishing just and
 reasonable rates for the transporta-
 tion of persons on the company's lines
 in the State of California.

Application No. 13323.

S. M. Haskins and Paul R. Watkins of Gibson,
 Dunn and Crutcher, for the Applicant.

Jess E. Stephens, City Attorney, Milton Bryan,
 Deputy City Attorney, and J. L. Ronnow,
 Deputy City Attorney, for the City of
 Los Angeles.

George A. Damon, for City Planning Association.

Carl Bush and E. F. Bogardis, for Hollywood
 Chamber of Commerce.

W. H. Engel, in propria persona.

Clyde Woodworth, City Attorney, for the City
 of Inglewood and City of Hawthorne.

LOUTTIT, COMMISSIONER:

O P I N I O N

The Los Angeles Railway Corporation, a street railway operating in and about the City of Los Angeles, filed with this Commission, on November 17th, 1926, an application whereby permission is sought to increase the rates of fare charged upon its street railway, as set forth in the schedule marked Statement "I", attached to the application, as modified by supplemental schedules submitted in evidence.

In general, permission is asked to increase the present basic fare of five (5) cents to seven (7) cents with the sale of

four (4) single fare tokens for twenty-five (25) cents. No request was made to increase the present ten (10) cent bus fare.

Hearings on this matter were held in Los Angeles during 1927, on January 13th, May 17th, 18th and 28th, and on August 9th, 10th and 11th. At the hearing held on August 11th the matter was taken under submission.

A number of very detailed and thorough studies, covering elements of value, financial results from operation and rates, were prepared and presented in evidence by witnesses representing the City of Los Angeles, applicant, and the engineering department of this Commission, respectively.

The evidence presented has been given careful consideration. The determination of fair value for rate making purposes calls for the exercise of judgment and, in reaching the conclusion hereinafter stated, all factors having a bearing upon the value of the property involved have been considered and such weight has been given to each as seems proper under the evidence of record. Forty-two million Dollars (\$42,000,000) is the highest figure that may reasonably be accepted as a rate base. This figure covers fully the undepreciated cost of the Company's property with land at present day values. A considerable portion of the Company's property was acquired or constructed during the period of high prices and allowance is made for such cost. It includes property constructed by funds set aside in the depreciation reserve. Furthermore, there must be taken into consideration the unsatisfactory franchise condition of the Company discussed in Re Los Angeles Railway Corporation (19 C.R.C. 980), as to which there is no evidence of any improvement. These facts make the acceptance of any higher estimate of a rate base, than that herein adopted, unjustified. The figure of Forty-two million

✓ Dollars (\$42,000,000) includes an allowance for material^s and supplies of approximately Seven hundred and fifty thousand Dollars (\$750,000) and for work in progress of approximately Two hundred and fifty thousand Dollars (\$250,000).

A careful consideration of all the evidence justifies the following findings of fact:

1. That a reasonable rate base to be used for the purpose of computing a fair return upon the operative property of this Company is the sum of Forty-two million Dollars (\$42,000,000).

2. That the financial results from the operation of applicant's property, under present operating methods, for the year 1927, based upon estimates contained in the record, may be fairly stated as follows:

Total Operating Revenues,	\$13,254,000.
Total Operating Expense, including depreciation, computed on a 5% sinking fund basis, and taxes,	11,183,739.
Net income available for return,	2,070,261.

3. That the average annual rate of return earned by applicant for the five-year period ending December 31st, 1926, has been approximately 7.1%.

4. That the rate of return earned by applicant under existing fares and methods of operation for the year ending December 31st, 1927, was approximately 4.9%.

5. The record shows that the operating methods of the Company might be so changed as to result in large reductions in the cost of operation and still enable the Company to render efficient and adequate service. The management of the Company has made no effort to take advantage of these possible economies which, if made effective, would result in the Company receiving a full and adequate return on the rate base heretofore named, to-wit: the sum of Forty-two million Dollars (\$42,000,000). By reason of

these facts, the rates of fare now charged by said Company are not unreasonable.

6. That the schedule of fares applied for by applicant, to-wit: a seven (7) cent cash fare with four (4) single fare tokens for twenty-five (25) cents, may be reasonably expected to produce a gross revenue of approximately Fifteen million seven hundred and eight thousand Dollars (\$15,708,000), and will, if permitted, produce a net annual return of 9.4 per cent upon the above rate base and the rates applied for, therefore, if put into effect, would be unjust and unreasonable.

Based upon these findings of fact, the following form of order is recommended:

O R D E R

The Los Angeles Railway Corporation, having filed the above entitled application for an adjustment of its rates, public hearings having been held, and the matter having been submitted to the Commission for its consideration and the Commission having fully considered the premises,

IT IS HEREBY ORDERED that the application of the Los Angeles Railway Corporation for increase of its rates of fare in the above entitled proceeding be and the same hereby is denied.

For all other purposes the effective date of this order shall be twenty (20) days from 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 24th day of March, 1928.

Leon Whittall

Emmuel Scott

Paul S. Latta

Commissioners.

I concur in the order and in most of what is said in the opinion which precedes it. There are, however, some things not expressed in the opinion to which reference may well be made and some conclusions which justify further comment.

While I am in accord with what is found as to rate base, there is one consideration not mentioned in the opinion, and which I think should be alluded to, which weighs heavily against acceptance of some of the higher figures claimed by the applicant and lends strong support to the figure found as reasonable. This is that the Company is now, and for many years has been, engaged in active and acute competition with privately owned automobiles. That this fact bears upon and affects the value of its property seems to me so obvious as to require no discussion. Various other reasons could well be advanced to sustain the conclusion respecting value, which finds unusually convincing support in the record.

This is the second time this Company has sought from the Commission authority to depart from the basic 5 cent fare which, with inconsequential exceptions, has prevailed on its Los Angeles system for many years, and to enter upon the uncharted sea of multi-coin fares. (1)

(1) Mr. Mott, Chief Engineer of the Commission, spent about six weeks in other sections of the country studying street railway conditions. Testifying here, after pointing out the confusion flowing from multi-coin fares and basing his testimony upon his extensive study and investigation, he added:

"Another feature that has impressed itself on me is that in most cities that have departed from the single coin fare of 5 cents, subsequent revenues have continuously diminished to such a degree that results of operation ultimately have often been nearly as unsatisfactory on the higher fares as they were on the 5 cent fare. It may be that there is no logical stopping point between the 5 cent fare and the 10 cent fare."

(See Page 2.)

In November 1918, the Company came before the Commission with a request that its service and financial conditions be investigated. This finally resulted, on May 31, 1921, in an order permitting the Company to charge a 6 cent fare, with 10 tokens or tickets for 50 cents. (Re Los Angeles Railway Corporation, 19 C.R.C. 980). In that decision it was pointed out that an investigation by the Commission had been made as to the methods of operation of the applicant and that pursuant to recommendations made by the Commission's engineers various improvements in service had been put into effect, resulting in large economies in operation, but that while the estimate of savings in operating expenses proved to be approximately correct, "unexpected increases in power costs and the further wage increases incurred, amounting to approximately \$1,250,000. per year, practically absorbed the benefits of operating savings and a part of the net earnings from increased traffic." (19 C.R.C. 998)

In the course of its opinion the Commission said:

"If adequate street railway service is to be given in Los Angeles, there appears to be no possibility for the company to secure the necessary revenue under a continuation of the flat 5-cent fare. An increase in the fare in some form, we are satisfied, should be authorized if street railway service is not to suffer and great injury is not to result to the development of the city."

(Continued from page 1.)

Later in his testimony, after referring to the experience of the Key System Transit Company in securing a much smaller increase in revenue than expected from an increase in fare from 6 cents to 7 cents, he stated:

"With that situation in mind, together with the fact that in most of the Eastern cities where they have these multiple coin fares, I find the sad tale from a financial point of view that the operators have to tell is -- was comparable to the Key Route tale and so much worse than the situation on the two large 5-cent fare cities here in California that I could not help but come to the conclusion that there must be some inherent merit in the basic 5-cent fare."

This testimony throws grave doubt upon the permanency of any increase in revenue due to horizontal increases in fare and as to the beneficial effect of any such increase upon the financial status of a street railway company.

The Company did not accept the increased fares authorized by this decision and after a period of over five years and on October 25, 1926, at the instance of the Company, the Commission set aside and revoked its decision.

Notwithstanding this confident prediction the Company, during the seven-year period from 1921 to 1927, inclusive, did, under the basic 5 cent fare, and although burdened by its bus operations to which reference will be made, realize net earnings which produced an average return upon all of its property, valued on the basis herein found to be reasonable, of 6.6 per cent. This return was not uniform over the period, it having been subject to somewhat striking fluctuations from year to year, as more fully appears from the following table, which shows the return not only for the seven-year period but for the period from 1913 to date.

RETURN BY YEARS

Year	Approximate Value on Basis of Value Found for 1927.	Net Income Adjusted for 5% Sinking Fund Depreciation.	Per Cent Return
1913	\$22,700,000.	\$1,830,000.	8.1
1914	23,700,000.	1,680,000.	7.1
1915	24,500,000.	1,290,000.	5.3
1916	25,200,000.	1,280,000.	5.1
1917	25,500,000.	1,190,000.	4.7
1918	25,800,000.	730,000.	2.8
1919	26,100,000.	860,000.	3.3
1920	27,000,000.	1,600,000.	5.9
1921	28,500,000.	1,770,000.	6.2
1922	31,400,000.	3,040,000.	9.7
1923	34,800,000.	3,280,000.	9.4
1924	38,800,000.	2,880,000.	7.4
1925	39,900,000.	2,090,000.	5.2
1926	41,200,000.	1,910,000.	4.6
1927*	42,000,000.	2,070,000.*	4.9
	Average for 15-year period		6.0
	Average for last seven years		6.6

* 1927 operations are in part based upon estimates.

It should be pointed out that the savings in operating expenses of something like \$1,000,000. a year, adverted to by the Commission in its 1921 decision, which were effected, according to the decision, largely in the year 1920, were savings which in large part could have been effected in the years preceding. If this circumstance is taken into account it is apparent that over the 15-year period a 5 cent fare was sufficient to yield the Company a return substantially more than the average of 6.0 per cent indicated in the table.

The experience of the Company over this fifteen-year period, during which there occurred violent changes in conditions, particularly as to operating costs, as well as the error into which the Commission was led in its 1921 decision, emphasizes the danger of attempting to arrive at a satisfactory conclusion as to rates upon the experience of a period as short as one or two years.

Thus it would have been just as reasonable in 1923 to have reduced the fares of the Company, because in that and the preceding year it was earning a return of between 9 and 10 per cent on its property, as it would be now to increase its rates because it is earning a return of only approximately 5 per cent.

Not only can it not be said, with any confidence of realization, that the present rates will not in the future on the average and under normal conditions yield this Company a reasonable return upon the property used in the public service, but a far more logical deduction from the Company's experience is that the existing rates will be adequate to this end. From the table showing earnings it will be observed that good and

bad years for the Company occur in rather short cycles. The years 1913 and 1914 and then 1922 and 1923 were very good years. The years 1918 and then 1926 were bad years. Other years were slightly above or below the average. The Company's worst year in the last cycle occurred in 1926. The year 1927 shows signs of improvement. There is no convincing evidence that the present low cycle of earnings is permanent or that in the future the Company will not realize as good or a better return on the average than it has during the last seven years.

One condition brought out by the record of the hearings calls for brief reference. Within the last few years the Company has entered upon the motor bus business. (2) This venture thus far has not proved a successful one but, on the contrary, has resulted in an out-of-pocket loss to the Company. As time goes on and the Company becomes more experienced in this line of business it should be able to reduce these losses and possibly make its motor busses which are operating on a 10 cent fare care for themselves without burdening the rail lines. If not, the rates for this motor bus service should be increased rather than burden the rail lines with such an unprofitable opera-

(2) These operations really fall within two classes. Some bus service represents merely extensions of strictly rail operations and should be and here are considered as a part of the rail operations. As to these bus lines the rail fares prevail. The other class of bus operations partake more of the nature of independent lines and are operated on a 10 cent fare basis. It is this latter class which is here referred to.

tion. In this connection it should be pointed out that the table of earnings heretofore set out indicates the return on both rail and bus operations. The return on rail operations alone was appreciably higher than on the consolidated business. (3)

In considering the reasonableness of the present rate structure of the applicant it must be borne in mind that the value of money invested in utility enterprises is now the lowest it has been in years. Even the most cursory examination of the reported decisions and orders of this Commission shows that capital is flowing readily to sound and needed utilities serving growing communities on an earning basis to the investor of from 6 per cent to 6½ per cent on preferred stocks, while for

(3) Elimination of bus operation shows an average return to the Company on its rail operations alone during the period 1921-1927, inclusive, of approximately 7 per cent, as more fully appears from the following table, in which has been eliminated the investment in bus property as well as receipts and expenses of bus operations:

RETURN BY YEARS ON RAIL OPERATIONS

: Year :	: Approximate Value Rail Property on Basis Found for 1927. :	: Net Income on Rails, 5% Sinking Fund for Dep. :	: Per Cent Return on Rails :
1921	\$28,500,000	\$1,770,000	6.2
1922	31,400,000	3,040,000	9.7
1923	34,230,000	3,313,000	9.7
1924	37,840,000	2,952,000	7.8
1925	38,610,000	2,187,000	5.7
1926	39,420,000	2,064,000	5.2
1927	40,110,000	2,206,000	5.5
		Average for Period	7.0

This table eliminates all bus operations both on the 10 cent fare basis and on a 5 cent fare basis. In drawing conclusions from this table some allowance must be made for the fact that extension bus lines should be included in the rail operations, which inclusion would reduce slightly the average return shown.

bonds the range is from 5 per cent, and even less, to 5-3/4 per cent. (4)

This Company occupies the streets under franchises, most of which call for a 5 cent fare. While such fare provisions are subject to change by the State in the exercise of its police power, (5) agreements of this character should not be brushed aside or ignored in the absence of clear and convincing evidence that adherence to them will work grave injustice to the Company. Particularly is this so in view of the many

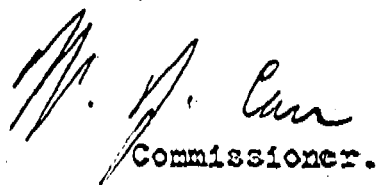
-
- (4) Re The California Oregon Power Company, Decision 18962, dated October 25, 1927 - App. 14113.
Re Coast Counties Gas & Electric Company, Decision 19121, dated December 15, 1927, - App. 14209.
Re Pacific Gas & Electric Company, Decision 18815, dated Sept. 19, 1927 - App. 14072, and Decision 19304, Feb. 3, 1928 - App. 14387.
Re Pacific Water Company, Decision 18612, dated July 19, 1927 - App. 13799.
Re Southern California Edison Co., Decision 18787, dated Sept. 13, 1927 - App. 14044.
Re Southern California Edison Co., Decision 18082, dated March 19, 1927 - App. 13602 (29 C.R.C. 463)
Re Southern California Edison Co., Decision 18607, dated July 13, 1927 - App. 13907, and Decision 19052, dated November 21, 1927 - App. 14187.
Re Southern California Gas Co., Decision 18008, dated Feb. 16, 1927 - App. 13496. (29 C.R.C. 386)
Re Southern California Gas Co., Decision 18918, dated October 10, 1927 - App. 13898.
Re Southern Counties Gas Company of California, Decision 19301, dated Jan. 31, 1928 - App. 14358.
Re Spring Valley Water Co., Decision 19126, dated Dec. 19, 1927 - App. 14204.

(5) This broad statement may be subject to some exceptions due to the 1915 amendment of the Broughton Act. (Statutes 1915, page 1300).

peculiar advantages of the basic 5 cent street car fare as contrasted with serious objections both in respect to service and financial results that seem to be attendant upon a multi-coin fare structure.

It is to be regretted that here the applicant does not secure each year a uniform return say of 7 per cent, but it does not seem possible to authorize rate changes up or down with such frequency as to bring about such a result. Such frequent changes, even if practicable, would be bound to have injurious consequences to the utility and to the community it serves. After all, if the processes of regulation are so shaped that a utility on the average, and under normal conditions and with proper operating economy and efficiency, earns a reasonable return on the fair value of its property the utility has no cause for complaint.

As it is not established here by clear and convincing evidence nor by a fair preponderance of the evidence and it cannot be found that the present fares will not, in the future, measure up to this test, it results that the present application should be denied.


Commissioner.

I concur in the opinion and order and in the concurring opinion of Commissioner Carr. There is one matter, that of economies of operations, which, although referred to in the main opinion, to my mind demands more specific attention. Substantial affirmative testimony is found in this record to the effect that changes in operative methods could be made which would save several hundred thousand dollars in expense without interfering with the adequacy, efficiency and safety of operations. The methods proposed are such as have been used successfully in other cities in this state and in cities of other states. For some reason this Company determined to oppose the recommendations. It introduced some rather indifferent testimony, through its own experts, in rebuttal. Realizing, probably, the weakness of its position in the record the Company then proceeded by public and private means, directly and indirectly, to bring about conditions which would influence this Commission to grant its request for increased rates. Under the circumstances, as evidenced by this record, if the Commission were to grant any increase there would fall upon those who are forced to use this street railway an unwarranted and unjust burden.


Commissioner.