

Decision No. 10507

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Marvelous Marin, a civic
organization,
Complainant,

vs.

Northwestern Pacific Railroad
Company, et al,
Defendant.

E. F. Dreger, et al.,
Complainant,

vs.

Northwestern Pacific Railroad
Company,
Defendant;

In the Matter of the Investi-
gation on the Commission's
own motion into rules, regu-
lations, practices, etc., of
Northwestern Pacific Rail-
road Company.

Case No. 2330.

Case No. 2349.

Case No. 2365.

Thos. P. Boyd, Thos. C. Jordan and Albert
C. Dibble, for the Complainants.

Goodfellow, Eells, Moore & Orrick, by Ralph
W. Palmer and Edgar T. Zook, for the
Defendant.

Walter H. Robinson, for the Outdoor Art Club
and Chamber of Commerce of Mill Valley.

A. H. Pape, for certain citizens of Kentfield.

E. F. Dreger, James H. Gilhuly and William Kent,
for themselves and certain residents of
Kentfield, Complainants.

Chas. R. Kenyon, for certain citizens of Woodacre,
Olema, Lagunitas and Point Reyes.

G. T. Brisley, for certain residents of Almonte.

Lester H. Ferguson, in propria persona.

H. C. Simons, City Attorney, for the Town of
Mill Valley.

Campbell Hardy, for the Sausalito Chamber of
Commerce.

Harry See, for the Railroad Brotherhoods.

A. W. Garrett, J. H. McMian and R. H. Rosenberg, for the Chamber of Commerce of Healdsburg.

J. H. Kirkpatrick, for the Chamber of Commerce of Ukiah.

WEITSELL, COMMISSIONER:

O P I N I O N

In Case No. 2330, Marvelous Marin, a civic organization in Marin County, makes a number of specific and general complaints against the defendant and asks the Commission to investigate the service, safety and practices of the Northwestern Pacific Railroad Company; in Case No. 2349, E. F. Dreger, James H. Gilhuly and William Kent, on behalf of themselves and other residents of Kentfield, complain of the inadequacy of defendant's passenger station facilities at Kentfield; and, in Case No. 2365, the Commission, on its own motion, instituted an investigation into the rules, regulations, practices, operations, service, physical property and safety conditions and devices of the Northwestern Pacific Railroad Company.

A number of hearings were held at San Rafael on the three proceedings, which, by stipulation, were consolidated for hearing and decision.

In the early hearings, testimony was introduced by complainants as to the inefficient, inadequate and unsatisfactory service and facilities of defendant; and as to the third rail, which is the power conductor of this company's interurban system, being unsafe and not adequately protected and as to the system generally being under-maintained, particularly with respect to the interurban lines.

Following the initial hearings, the Engineering Department of the Commission, through its Transportation Engineer, J. G.

Hunter, and other members of the Commission's staff, made a study of defendant's system as a whole, directing particular attention to the interurban lines in Marin County. The results of these investigations were incorporated in two reports, which were introduced in evidence as Commission's Exhibits Nos. 1 and 2 in these consolidated proceedings at the hearing on September 29th, 1927. In these reports the Commission's Engineers made specific recommendations for improvements on the Northwestern Pacific Railroad Company's lines, of which some forty referred to the interurban system.

A comparison of the recommendations contained in the reports of the Commission's Engineers, with the more important specific items of relief requested by complainants in Cases No. 2330 and No. 2349, discloses that our Engineers not only recommend improvements in all of the matters complained of, except three items, but go a great deal further and recommend a number of other improvements. The three items to which the Commission's Engineers did not make recommendations, looking toward the correction of matters complained of in these cases, are as follows:

1. That the Corte Madera Tunnel be double-tracked.
2. That the third rail of the interurban system be replaced with overhead trolley.
3. That the electric line be extended to Grand Avenue in San Rafael and that a station be established at that point.

Following the presentation of reports by our Engineers, the stockholders of the Northwestern Pacific Railroad Company, viz: Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, appointed a special committee to make an independent investigation of the conditions complained of. A summary of the report of this special committee was filed at the hearing on February 11th, 1928, as defendant's Exhibit No. 43. In this report the necessity of correcting many of the conditions

complained of in this proceeding is conceded. The owners' special committee has concurred with most of the recommendations made by our Engineering Department, as set forth in Commission's Exhibit Nos. 1 and 2. In fact, the only important recommendations of our Engineers, to which this committee took exception, were as follows:

1. Removal of interurban track on Second Street, San Rafael.
2. Provision of protective covering over the third rail through swamp land and other undeveloped territory.
3. Provision of passenger stations on the west side of the tracks at Almonte, Baltimore Park and Kentfield, respectively.
4. Substitution of bus for train service on the Pt. Reyes-Monte Rio Narrow Gauge Line.

In view of this situation, a detailed discussion of the undisputed items appears unnecessary in this opinion but the order should provide for the execution of all the relief justified by the record in this proceeding.

The three matters, complained of in Cases Nos. 2330 and 2349, which are not recommended for correction in the report of Commission's Engineers, will now be discussed.

1. Double-tracking of the Corte Madera Tunnel:

The record shows that the operation through this tunnel, as now conducted, is reasonably protected by means of modern automatic and interlocked signals and also by means of train directors stationed at each end of the tunnel during times of peak travel. A traffic check, taken by the Commission's Engineers on Friday, July 29th, 1927, showed that between the hours of 7:00 A.M. and 7:00 P.M. there was a total delay to trains at this tunnel of seven minutes, as follows:

Electric passenger trains	1½ minutes
Steam passenger trains	1½ minutes
Electric baggage car (running extra)	3 minutes
Steam freight train (running extra)	1 minute

The record does not indicate that trains are unnecessarily delayed, due to the fact that this is a single track tunnel. It thus appears that although double-track would be preferable to single track, the delay and hazard on this stretch of single track, under present operation, does not justify an expenditure in excess of half a million dollars for its correction. If, however, train service should be materially increased in the future, the expense of double-tracking this tunnel may then be justified.

2. Changing Third Rail to an Overhead Trolley System:

It is pointed out in the report of the Commission's Engineers that if defendant's interurban system were to be newly built at this time, it would be more desirable to have an overhead trolley system than the existing third rail power line. However, to make such a change at this time would require an expenditure estimated at \$552,000., exclusive of any changes in substations or other facilities. The record shows that this Company's electric interurban operation is entirely on private right-of-way, except at grade crossings and over that portion of the line on Second Street in San Rafael, a distance of about 1100 feet. This Second Street situation is discussed later in this opinion. The record does not justify a conclusion that the large expenditure necessary to rebuild defendant's energy contact system, from third rail to overhead trolley, is justified at this time.

3. Extension of the Electric Line to Grand Avenue, San Rafael:

This change would require the acquisition of additional right-of-way and land for electric train terminal facilities at Grand Avenue. The public convenience to be served by this addition hardly justifies the large expense necessary for such an improvement. If, however, there is a change in the method of operation between the Union Station at San Rafael and points to the north on the main line, such as the substitution of gas electric cars for

steam service, a stop might appropriately be established at Grand Avenue to accommodate passengers in that vicinity.

The recommendations contained in the report of Commission's Engineers, to which the Railroad Committee takes exception, will now be discussed.

1. Track on Second Street, San Rafael:

From the evidence presented, I am convinced that the operation of trains on Second Street, San Rafael, under present conditions, presents a real public menace and that this situation should be corrected. The newly chosen President of the Company,

E. E. Maggard, stated at the hearing, held on February 21st, that he recognized this hazard, but had not yet satisfied himself as to the best plan by which the hazard can be eliminated. It therefore appears proper that the order herein should require the Company to prepare and file with the Commission, within a reasonable time, for its approval, a suitable plan for correcting the existing hazardous condition and thereafter to promptly carry such approved plan into effect.

2. Protection for the Third Rail:

The Committee agrees that the third rail should be protected with a covering through all developed territory but does not consider that such protection is necessary along the line through undeveloped territory. There appears to be some merit in the Committee's contention. While it would be desirable to have the rail covered throughout the entire system, no great hazard will result if the work of covering the rail, through the swamp and undeveloped district, through which the interurban lines run, is deferred for the present. I do not believe the full program recommended by our Engineers in this regard can be justified at this time. However, I am convinced, in view of the recent accident near Mill Valley High School, that in addition to the permanent covering in built-up territory, temporary protection should be installed along the third rail, where non-company men are working in close prox-

imity to it.

3. Additional Shelter Stations:

With respect to providing stations on the west side of the tracks at Almonte, Baltimore Park and Kentfield, the Committee takes the position that the traffic does not justify this expenditure, which amounts to about \$700. per station. The record shows that the existing station facilities at these points are not adequate and are improperly located, and I am of the opinion that the comparatively small expense required to provide these stations is justified, as passengers are reasonably entitled to shelter during stormy weather, and such shelter should be located on the side of the track where patrons are required to stand when boarding trains.

4. Substitution of Bus Line for Steam Trains
on Pt. Reyes-Monte Rio Line:

The Commission's Engineers recommend that the steam service on this line be replaced with bus service, which will result in an estimated annual saving of approximately \$58,000. The Committee, however, takes the position that since the revenue received from this line fails to meet operating expenses by an amount of approximately \$53,000., it should be abandoned. As will be set forth later, no final determination of this item is necessary in these proceedings.

Abandonment of Facilities:

In the report of the Commission's Engineers, Exhibit No. 1, consideration is given to the matter of reducing the operating expenses of the company by the elimination of steam service on certain lines and the substitution therefor of service by means of gas electric cars; also, the discontinuance of agencies at "B" Street and West End Stations, San Rafael, Ross, Kentfield and Corte Madera, after the company has placed in operation the Ohmer registers and has provided for the checking of baggage by the train crew.

Before any action is taken, with respect to the abandonment of any facilities, such matters must be presented to the Commission by means of an appropriate application on the part of the carrier. No final determination of such matters will be made, therefore, in these proceedings.

The record clearly indicates that the service on the San Geronimo Valley Branch and also the Sonoma Valley Branch could be improved and that such improvement could be brought about by the substitution of gas electric motor cars for steam trains. This same condition exists, but perhaps to a lesser or seasonal degree, on the Guerneville Branch and the local line between Healdsburg and Sausalito. The company has indicated that it desires to give further study to a comparison between gas electric motor car service and auto stages on the various lines under consideration. This request appears to be reasonable but the company should take steps to immediately proceed to work out a plan whereby an improved service can be afforded on these lines at the least cost.

Referring to the important recommendation made by our Engineers, that the company adopt a program of replacing its old wooden interurban equipment with modern steel equipment, President Meggard, at the last hearing, made a statement that the company proposed to purchase five new motor and five new trailer cars, of up-to-date type, at a cost of about \$255,000., and that this new equipment will be available for operation as promptly as it can be designed and built.

Testimony was offered to show that considerable public hazard results from the lack of gates and wooden platforms on interurban cars. It appears that this is a feature to consider in passing on the plans of any new equipment. However, the record does not appear to justify requiring the Company to remodel the equipment now in use, since it is planned to replace these cars with new equipment within a reasonable period of time.

It appears that there are some seven motor cars and nine-

teen trailer cars, of wooden construction, both body and under-frame, which have been in service for over twenty years, and I am convinced that all of these cars should be replaced with modern steel equipment within the next few years. Many other cars are also nearing the end of their useful life and these, too, should be replaced under some progressive plan.

President Maggard further stated that in the near future the company plans to replace, with new structures, in accordance with the Engineer's recommendations, the stations at Ukiah and Healdsburg, and also the Union Station, "B" Street Station and West End Station, San Rafael. The stations at Sausalito, Tiburon, Mill Valley and Ross will also be improved.

On Page 79 of Commission's Exhibit No. 1 is set forth a recommendation relative to protecting the public against the power rail within the limits of station grounds by constructing suitable top and side covering as well as fences. It appears that this recommendation has met with the approval of the carrier and is now being effected.

The record clearly shows that considerable public hazard exists at grade crossings, due to inadequate protection of the third rail. The situation can be materially improved by the construction of appropriate wing fences and cattle guards and requiring that no part of the third rail shall extend over the cattle guards, together with the construction of a heavy covering over the energized rail for a distance of at least 25 feet from the end thereof, as set forth in Commission's Exhibit No. 1, Page 80.

It appears that the recommendations contained in our Engineers' report, Commission's Exhibit No. 1, Page 69, relative to improving the appearance of the station grounds at the various stations along the company's interurban lines, are reasonable and that this comparatively small expense is justified.

The record shows that the standard of maintenance, with respect to grade crossings and track structures, is rather low and the recommendations contained in the report of the Commission's Engineers, Exhibit No. 1, with respect to these matters, should be carried out and a reasonable high standard of maintenance established.

Since there appears to be no disagreement as to the recommendations contained in the report of the Commission's Engineers, Exhibit No. 2, with respect to improving the power situation, there seems to be no necessity of discussing these matters, further than to state that these recommendations appear to be of major importance for good service and the company should proceed forthwith to put them into effect.

It appears that the complaint, with respect to train and boat schedules, has been taken care of and need not further be considered in this decision.

The following form of order is recommended:

O R D E R

Public hearings having been held on the above numbered proceedings, the Commission being advised of the facts, the matters being under submission and ready for decision, therefore,

IT IS HEREBY ORDERED that Northwestern Pacific Railroad Company be and it is hereby directed to improve its service and facilities by complying with each of the following requirements:

1. Construct, in accordance with plans to be approved by the Commission, new stations at Union Station, "B" Street Station and West End Station, San Rafael, Marin County, Ukiah, Mendocino County, and Healdsburg, Sonoma County.

2. Reconstruct or improve, in accordance with plans to be approved by the Commission, its stations at Sausalito, Tiburon, Mill Valley and Ross, as well as maintain a reasonably high standard at other stations on its line.

3. Construct, in accordance with plans to be approved by the Commission, shelter stations on the west side of the track at Almonte, Baltimore Park and Kentfield.

4. File with the Commission, for its approval, within three (3) months from the date of this order, a plan providing for the elimination of the hazard of third rail operation on Second Street, San Rafael. Upon receiving the approval of the Commission, the Company shall proceed to have such approved plan put into effect as expeditiously as possible.

5. Protect third rail with a covering at all stations and throughout the entire territory traversed by the line, except that if the company so elects, such third rail covering may be omitted in marsh territory on that portion of the line between Pine Street, Sausalito, and Almonte and between Almonte and West end of Corta Madera Tunnel, between Baltimore Park and Green Bree and between California Park and San Rafael, except at station grounds.

6. Provide a protective covering for third rail contact shoes and other exposed energized surfaces on all interurban equipment.

7. Submit, for the Commission's approval, within three (3) months from the date of this order, a plan of improving the service on its line serving the San Geronimo Valley.

8. Proceed to carry out all the recommendations outlined in the Commission's Exhibit No. 1, Pages 59, 60 and 61, with respect to improving grade crossings.

9. Proceed to carry out all the recommendations contained in the Commission's Exhibit No. 1, Pages 30 to 38, inclusive, with respect to correcting impaired clearances and unsafe conditions in tunnels and on bridges.

10. Proceed to improve the power situation on its lines substantially in accordance with the recommendations in Commission's Exhibit No. 2.

11. Submit, for the Commission's approval, a plan of renewing equipment and promptly proceed to purchase and place in operation five new motor cars and five new trailer cars, of a detail design to be submitted to the Commission, for approval, within three (3) months from the date of this order.

12. File monthly progress reports, until otherwise directed by the Commission, showing the progress that has been made in carrying out the terms of this order.

Except as otherwise specifically provided above, all acts herein directed to be done, shall be undertaken forthwith and carried out to consummation with all reasonable diligence and expedience.

I concur in the order. However, in view of the fact that there are now before this Commission applications from other utilities and agencies seeking to enter portions of the general field served by the Northwestern Pacific it should be pointed out that the order does little more than to direct what the Company, on or about February 21, 1928 and in the course of the proceedings, indicated its willingness and purpose to do. This fact may or may not prove to be of importance in determining these other applications. This Commission, as early as 1912, in Pacific Gas and Electric Company vs. Great Western Power Company, I C.R.C. 203, 209-11, announced the salutary principle that

"only until the time of threatened competition shall the existing utility be allowed to put itself in such a position with reference to its patrons that this Commission shall find that such patrons are adequately served at reasonable rates."

A contrary rule as there pointed out would mean

"that old utilities would keep their territory unspurred by the fear of competition, knowing always that only when it was imminent need they prepare to do justice to their patrons."

This principle is one of great importance. It may be invoked in the applications referred to. If so, the Commission in considering and applying it should not be embarrassed or forestalled by this order which is entitled to no other or further effect than the particular facts and circumstances upon which based justify and require.


COMMISSIONER