

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
SOUTHERN PACIFIC RAILROAD COMPANY, )  
SOUTHERN PACIFIC COMPANY, THE ATCHISON, )  
TOPEKA & SANTA FE RAILWAY COMPANY, )  
PACIFIC ELECTRIC RAILWAY COMPANY, LOS )  
ANGELES & SALT LAKE RAILROAD COMPANY, )  
and the CITY OF LOS ANGELES by its )  
Board of Harbor Commissioners, for the )  
approval of a contract entered into by )  
and between them and for the approval ) Application No. 14,899  
of a contract entered into by said )  
applicants other than said City, said )  
contracts providing for unified opera- )  
tion of railroad facilities other than )  
passenger operations in the immediate )  
vicinity of Los Angeles Harbor, Los )  
Angeles County, California. )

Clyde M. Leach, Assistant City Attorney,  
Harbor Department, City of Los Angeles, for the  
Applicant City of Los Angeles.

Frank Karr, for the Applicants Southern Pacific  
Company, Southern Pacific Railroad Company, and  
Pacific Electric Railway Company.

Fred E. Pettit, Jr., for Applicant Los Angeles  
and Salt Lake Railroad Company.

E. W. Camp and Robert Brennan for Applicant,  
The Atchison, Topeka & Santa Fe Railway Company.

F. A. Jones and L. E. Stewart for Protestants  
Wilmington Chamber of Commerce and San Pedro Chamber  
of Commerce.

M. C. Spicer for Intervenor The Federation of  
State Societies, Incorporated.

Henry E. Carter for Protestant Citizens Com-  
mittee of Wilmington.

Frank L. Walton for Harbor Chambers of Commerce.

Albert Phillips for Brotherhood of Locomotive  
Firemen and Enginemen.

George Burbank for Brotherhood of Locomotive  
Engineers.

J. A. Farquharson and Harry See for Brotherhood  
of Railroad Trainmen.

Charles A. Bland for Long Beach Chamber of Com-  
merce and City of Long Beach.

CARR, Commissioner:

### O P I N I O N

In this application the Southern Pacific Railroad Com-  
pany, Southern Pacific Company, The Atchison Topeka & Santa Fe  
Railway Company, Pacific Electric Railway Company, Los Angeles  
and Salt Lake Railroad Company, and the City of Los Angeles,  
thru its Board of Harbor Commissioners, seek the approval of  
this Commission of two certain agreements in so far as any approval  
may be necessary under the provisions of the Public Utilities  
Act.

A public hearing was had before me at Los Angeles, the  
matter was duly submitted, and is now ready for decision.

These agreements provide for unified operation of rail-  
road facilities, excepting passenger operations, in a certain  
specific zone located in the immediate vicinity of Los Angeles  
Harbor, Los Angeles County, California. It is proposed that  
the railroad properties and facilities of the applicant carriers  
be operated within the zone by an organization known as the  
"Harbor Belt Line Railroad". The purpose and function of this  
organization is to perform the general freight transportation  
business of the respective carriers within the zone of operation,  
including all necessary switching and handling of freight.  
The control and management of this organization is vested in a  
Board of Control, and a Board of Operation, and the personnel  
of these bodies will be composed of representatives of various

parties to the agreement.

The jurisdiction of this Commission over the approval of this contract exists, if at all, under the provisions of Section 51(a) of the Public Utilities Act, which, in so far as here applicable, provides:

"No public utility shall henceforth sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having secured from the railroad commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void."

I am of the opinion that this arrangement does not call for a sale, lease, assignment, mortgage, distribution, encumbrance, merger or consolidation within the meaning of the above Section, and hence its approval by the Commission is unnecessary.

The extent to which the Commission will have jurisdiction over operations under the agreements is not now before us and need not be passed upon.

#### O R D E R

Application as above named and numbered having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted, and being now ready for decision,

IT IS HEREBY ORDERED that the said application be, and

the same is hereby dismissed for want of jurisdiction,  
the contracts in question not being of the character re-  
quiring approval by the Commission.

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 17<sup>\*</sup> day of  
September, 1928.

Leon Whiteley  
Chairman  
Ernest Scott  
David Smith  
M. J. Lane  
Commissioners