

**ORIGINAL**

Decision No. 21246

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of an Investigation  
on the Commission's own motion of  
the Safety of Operation of the  
FAIRFAX INCLINE RAILROAD COMPANY.

Case No. 2694.

Mrs. Margaret Hochfelder, for Respondent.

Mr. A. Dudley Tyler, for the Menor Hill  
Association.

Mr. F. E. Dickey, Interested Party.

BY THE COMMISSION:

O P I N I O N

This is a proceeding on the Commission's own motion to inquire into the safety of operation of the Fairfax Incline Railroad Company, operating in and in the vicinity of the unincorporated Town of Fairfax, Marin County, California.

A public hearing was conducted by Examiner Williams at San Anselmo on May 31st, 1929.

This railroad was built in 1913 by the Fairfax Incline Railroad Company, a corporation, and has a total length of approximately 1500 feet. The track is laid along the hillside and supported by a low frame timber trestle with a maximum grade of 45 per cent and thus assumes the aspect of an incline elevator. This railroad serves the residential section located on the hillside to the west of the Town of Fairfax and carries approximately 35,000 passengers annually. The single passenger car operated on this railroad has a carrying capacity of twenty passengers and is drawn by two steel cables which pass through the electric operating equipment located in the power house at the top of the incline. The balancing counter-

weight operates on the same trestle as does the passenger car with its independent track and is of low construction, which permits it to pass under the passenger car. At this time the car and counterweight are operated with one cable, the other running free without a load, upon the theory that if the pulling cable should break, the second cable could take up the load.

The record shows that the Commission has recently given consideration to the safety of operation of this railroad, as evidenced by its informal file, I.C. 39673, which was, by stipulation, considered in evidence in this proceeding. This file shows that after certain investigations, a letter was directed to the President of this railroad on March 12th, 1929, requesting that certain improvements be made within a period of sixty days, to insure the safety of operation. The Commission instituted this proceeding after having information that its informal request for the improvement of the system had not been carried out.

The record in I.C. 39673 shows that an inspection of this railroad has been made by our Assistant Engineer, Mr. Ward Hall, and Mr. W. J. Cove, an employee of the Division of Industrial Accidents and Safety of the State of California, and that the utility has heretofore been furnished copies of the reports of these two engineers. It is the recommendations contained in these reports which the Commission, in its letter of March 12th, requested carried out, looking toward safer operation of the railroad.

Mr. Hall's report was introduced in this proceeding as Commission's Exhibit No. 1. This report deals with the condition of the track and supporting trestle. Contained therein are recommendations for the renewal of one bent and certain timbers on the trestle, together with other improvements. Reference is made to this exhibit for the specific items and structures which the records show should be improved.

Mr. Cove's report, introduced as Commission's Exhibit

No. 5, deals with the safety and mechanical appliances of the motive power. In this report, Mr. Cove recommends that the tension of the two hoisting cables be equalized; that the brake should operate from the direction switch of the controller, rather than through an independent control; that some safety appliance should be provided to take the load in case the two pulling cables or their fastenings carry away; also, that certain of the electric equipment be grounded.

Both of these witnesses testified that, in their opinion, the various recommendations made in their respective reports should be effected to insure the safety of operation of this system and that without these improvements it is unsafe to continue the operation of this carrier.

The record shows that all the stock of the Fairfax Incline Railroad Company is now owned by J. Hochfelder and family and was acquired about three years ago. Mrs. Margaret Hochfelder, Secretary of the company, is in active management. She testified that the utility's property is mortgaged for \$2,000. (reduced from \$3,000.) and that the stockholders are unable to meet any stock assessment to make improvements; that the corporation has no credit and that no indemnity insurance is carried on the business because of prohibitive rates asked by insurance companies. She testified that, to date, only three of the recommendations set forth in the reports introduced as Commission's Exhibits Nos. 1 and 5, referred to above, had been complied with, namely; that the brakes now operated from direction switches of the controller; that the electric machinery has been grounded; and that the bobbins have been placed in working condition.

With reference to one of the recommendations set forth in Mr. Cove's report, which has not been complied with, dealing with the installation of some special protective device to apply in case the pulling cables or fastenings carry away; it is contended by the

management of the railroad that it is unnecessary and impractical to provide this safety device. In support of this contention, it was stated that a number of firms, in the business of installing special protective devices on elevators, which operate similar to the one under consideration, have been consulted and report that they are unable to devise a plan to carry out this recommendation. Furthermore, it is contended that the earnings of this carrier are not sufficient to justify any substantial expense, as would be necessary to provide some special protective device. The record in this case, however, shows, through the testimony of Mr. Cove, who has had approximately twenty-seven years of practical experience in the construction, operation and maintenance of elevators, that it is both practical and necessary, from a safety standpoint, that some special protective device be installed, either the one which he has suggested or some other suitable type. On the other hand, there is nothing in the record to show that it is impractical to install such a device, except the mere statement from the management that the firms consulted have not been able to work out any plan to effect such a safety feature.

In view of the testimony of the two engineers, referred to above, that the system, in its present condition, is not safe to be operated as a common carrier, we are confronted here with a situation which the Commission cannot reasonably permit to exist, upon the ground that the earnings of this utility are not sufficient to justify the necessary expenditure for appliances to assure the safety of operation of this carrier. To do so would not be carrying out the duty and policy of the Commission to afford reasonably safe operating conditions to passengers carried on this and all other common carriers in this state. While it is appreciated that the discontinuance of the operation of this line will work a serious hardship on the management of this railroad, as well as the residents of this district and others now being served by the railroad, it appears proper that the Commis-

sion should take the stand that the road should either be placed in a safe operating condition, by the carrying out of the recommendations set forth in the Commission's Exhibits Nos. 1 and 5, respectively, referred to above, or its operation should cease. To this end, the following order will be entered.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter being under submission and now ready for decision,

IT IS HEREBY FOUND AS A FACT that the operation of the Fairfax Incline Railroad Company, under its present condition, is not safe and that certain improvements should be effected to protect the safety of the traveling public on this line; therefore,

IT IS HEREBY ORDERED that the Fairfax Incline Railroad Company be and it is hereby directed to make the following improvements on its railroad:

(1) Repair its timber trestle in accordance with the recommendations set forth in the Commission's Exhibit No. 1.

(2) Equalize the tension on the cables, as recommended in the Commission's Exhibit No. 5.

(3) Install a safety device to function in case the pulling cables or their fastenings carry away, as recommended in the Commission's Exhibit No. 5.

IT IS HEREBY FURTHER ORDERED that:

I. The Fairfax Incline Railroad Company shall, within twenty (20) days from the date of this order, file with the Commission, for its approval, plans and specifications for the installation of the safety device as set forth in paragraph (3) above.

II. The improvements, set forth above, shall all be completed within sixty (60) days from the date of this order, at which time the Fairfax Incline Railroad Company shall file

with the Commission a written report that these improvements have been completed.

IT IS HEREBY FURTHER ORDERED that if these improvements are not effected within the said sixty-day period, operation on this railroad shall cease until further order from this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of June, 1929.

Thos D Lovitt

W. Seaver

Leon Whitely

M. J. Carr

Commissioners.