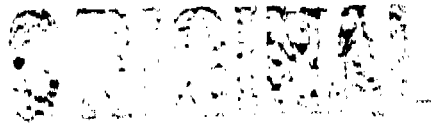


Decision No. 24729.



BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of TIDEWATER SOUTHERN RAILWAY COMPANY for an order authorizing the discontinuance of passenger train service between Stockton and Modesto and intermediate points.

Application No. 17983.

L. N. Bradshaw, Attorney for applicant.

Louittit, Marceau & Louittit, by Thos. S. Louittit, for the community of Escalon, protestant.

Guard C. Darch, District Attorney, by Ward A. Hill, for the County of San Joaquin, protestant.

SEAVEY, COMMISSIONER:

O P I N I O N

This is an application filed by the Tidewater Southern Railway Company, requesting authority to discontinue passenger train service between Stockton, San Joaquin County, and Modesto, Stanislaus County.

A public hearing on this proceeding was held at Stockton on April 15th, 1932.

The Tidewater Southern Railway Company operates approximately sixty-five miles of railway in San Joaquin, Stanislaus and Merced Counties, extending from Stockton southerly to Hilmar in Merced County with branches into the Cities of Manteca and Turlock. The line has been electrified between Stockton and Modesto only. Freight operations are carried on over the entire system but

passenger service is provided only between the Cities of Stockton and Modesto, a distance of 32.7 miles. With the exception of a short section of line through the City of Modesto, the company uses steam motive power in its freight operation but in its passenger service electric power is used.

At the hearing the company, through its President, Mr. H. A. Mitchell, presented testimony and exhibits supporting its application. In general, the company's contention is that while the passenger service has been operated as efficiently and economically as possible, the passenger travel has been steadily decreasing and the revenue now received from this service is far less than the out-of-pocket cost of providing it. It is stated that the applicant is unable to continue to sustain the losses resulting from the operation of passenger trains and that the continued operation of passenger train service imposes an undue burden upon other traffic. It is claimed that losses cannot be overcome in any other way than by discontinuing the passenger service.

It was shown that the passenger revenue in 1931 was but 22½ per cent of that of 1920, although the population of the Cities of Stockton and Modesto has increased 25 per cent during this period. The total revenue in 1931 from the passenger service was \$11,333., or approximately 10 cents per train mile.

Figures also were introduced showing the expense of providing this service. The electrical power distribution system and substations would not be required in connection with freight operation, excepting for the movement through the City of Modesto, and the company, accordingly, in making its estimate of out-of-pocket costs of the passenger service, has made allowance for the expense of maintaining and operating these facilities. Applicant also rents certain tracks in order to effect an entrance into the City of Stockton for its passenger cars and incurs an expense

of \$6,600. per year, which will not be necessary in connection with its freight operations since an interchange with the Western Pacific for freight is made at Ortega, 3.6 miles south of the city. When the expense of maintaining passenger cars, their electrical equipment and the cost of power and trainmen's wages and other expenses directly chargeable to the passenger service are added, it is estimated that the cost of providing passenger service in 1931 was \$39,752. On the basis of 110,313 train miles operated during the year, the cost of operation was approximately 36 cents per train mile or three and one-half times the passenger revenue per train mile.

Applicant presented an exhibit showing the financial results of operation of the company as a whole during the period 1920 to 1931, inclusive. It appears that the operations have been conducted at a small profit during this period, yielding a return on the book value of the investment in road and equipment varying from a maximum of 3.65 per cent in 1926 to no return in 1931, the operations during this latter year showing a loss of \$2,700. During the years 1929, 1930 and 1931, however, a considerable amount of deferred maintenance of way expense was incurred and, with normal maintenance costs during these years, the company's books would have reflected a profit.

Applicant points out that the loss from passenger operations was equivalent to a burden of \$3.52 upon each carload of freight transported by the Tidewater Southern Railway during the year 1931 and that while no passenger service is provided for the section south of Modesto, more than half of the cars of freight move to and from points not having passenger service.

It appears that a considerable portion of the district between Stockton and Modesto is served by other public carriers

of passengers. Southern Pacific Company operates through both Modesto and Stockton and provides some passenger service between these two points. Pacific Greyhound Lines also operate between these two termini and in other intermediate territory. The Atchison, Topeka and Santa Fe Railway Company operates through Escalon, the largest community on the Tidewater Southern Railway between Stockton and Modesto, and the operations of the Modesto-Cakdale Stage Company also parallel a section of the Tidewater Southern line. Approximately 12.3 miles of the 32.7 miles are without public passenger service other than that provided by the Tidewater Southern Railway. The company has made a check, by zones, of the distribution of its passengers during the year 1931 and claims that out of a total of 17,798 passengers carried, but 4,733, or 26.6 per cent, would be without public passenger service in the event the Tidewater Southern passenger cars are discontinued. During February, 1932, the average number of such passengers was 6.17 per day. The company showed, by testimony, that the present mail and express services would be cared for adequately by other means.

The application was protested by San Joaquin County and other communities on the line, particularly the Town of Escalon. Protestants presented copies of franchises and ordinances under which Tidewater Southern Railway operates, purporting to show that passenger service was an obligation of this carrier. This Commission, however, must make its decision in this application on the basis of whether or not public convenience and necessity now require passenger service and cannot be bound by requirements written into franchises many years ago when the passenger service offered by railroads to a large extent was the only means of transportation between communities. The determination of franchise requirements is not a duty of this Commission.

Copies of resolutions by civic organizations were introduced and these exhibits were supplemented by oral testimony from several witnesses. The measure of public necessity for this service, however, should not be resolutions by civic bodies or the testimony of witnesses who do not patronize the cars but rather it is the amount of actual revenue patronage. I am not convinced that there is necessity for a service when the traffic statistics show that less than four passengers per trip are carried on a line, 33 miles in length in a thickly settled agricultural district, connecting towns with a total population of over sixty thousand.

After giving careful consideration to all the evidence in this proceeding, it is recommended that the application be granted and the following form of Order is suggested.

O R D E R

Tidewater Southern Railway Company, a corporation, having applied for authority to abandon and discontinue operation of all passenger service on its line of railroad between Stockton, San Joaquin County, and Modesto, Stanislaus County, a public hearing having been had, the matter having been submitted and being now ready for decision; therefore,

IT IS HEREBY ORDERED that Tidewater Southern Railway Company is hereby granted authority to abandon and discontinue the operation of all passenger service on said line of railroad and to cancel, in conformity with the rules of this Commission, all passenger rates, tariffs and time schedules, unless and until the Commission shall find, after hearing, that public convenience and necessity require the restoration of passenger service upon said railroad line.

Applicant shall post notices of the discontinuance of said passenger service in conspicuous locations in its passenger

stations and its passenger cars ten (10) days in advance of the date of the discontinuance of such service.

Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the abandonment of passenger service herein authorized and of its compliance with the conditions hereof.

The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

The effective date of this order shall be twenty (20) days from the date hereof, except that applicant may, if it so elects, post the required notices of such abandonment ten (10) days in advance of said effective date.

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 2nd day of May, 1932.

C. L. Seaver

W. A. Carr

M. B. Harris

Fred G. Peterson

Commissioners.