

Decision No. 11233

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
PENINSULAR RAILWAY COMPANY, a cor-)
poration, to abandon certain of its)
tracks and to reroute certain of its)
cars in the City of San Jose, Calif-)
ornia.) Application No. 7786.

Louis Oneal and Lieb & Lieb, by W. F. James, for Appli-
cant.
Bohnett & Campbell, by L.D. Bohnett, for certain
residents, Protestants,
Archer Bowden, City Attorney, for City of San Jose.

BY THE COMMISSION:

O-P-I-N-I-O-N

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order granting permission to applicant to abandon its franchise upon and service over Bird Avenue, Coe Avenue, and Lincoln Avenue between the intersection of Lincoln Avenue and Willow Street, to remove its rails and equipment therefrom, and to hereafter operate its cars now operated over the above described route between San Jose and Los Gatos by way of Campbell, over Willow Street and Delmas Avenue or over Willow Street and First Street.

A public hearing on this application was conducted by Examiner Handford at San Jose, the matter was duly submitted and is now ready for decision.

Applicant alleges that the line for which permission to abandon is herein sought, is used solely for the operation of its through cars between San Jose and Los Gatos via Campbell; that the service so rendered can be equally well per-

formed by the rerouting of its through cars either over Willow Street and First Street or over Willow Street and Delmas Avenue; that by reason of hourly service but few passengers are carried locally over the portion of the line herein sought to be abandoned; that little inconvenience will be occasioned to such limited local passenger traffic for the reason that a local service of greater frequency is operated over the Park Avenue and San Carlos Street lines of applicant and over the Willow Street and Delmas Avenue and connecting lines of the San Jose Railroads; that the financial condition of applicant is such that every possible economy in operation is necessary; that the line herein proposed to be abandoned is in such physical condition that rehabilitation is shortly necessary and the cost of such rehabilitation is estimated by the engineers of applicant to approximate the sum of \$ 13,630 if the road is brought up to the standard as originally constructed but if the city and county authorities order the paving of the portions of Bird and Coe Avenues upon which the track is laid the cost of the reconstruction and paving will approximate \$38,181.61 after making due allowance for salvage recovered from the existing road.

Witnesses for applicant testified as to the present financial condition of the company and the net loss from operation during the period ending December 31, 1921, of \$362,536.02 (including interest and taxes). During the period, January 1, to April 30th, 1922, inclusive, a net loss of \$133,103.45 (including interest and taxes) was incurred. A check of the patrons using the cars during the period from April 3 to 8th, 1922, inclusive, on the portion of the line proposed to be abandoned shows an average of 3.79 passengers per trip boarding or alighting.

The granting of the application is protested by residents of the section served by the line and petitions signed by 109 protestants were filed as an exhibit at the hearing, requesting the denial of the application and requiring applicant to furnish additional service. A further protest was filed at the hearing signed by 38 property owners on Bird Avenue who objected to the removal of the tracks for the reason that the additional expense of paving, if such were authorized by the city or county authorities, must be borne entirely by the abutting property owners.

The City of San Jose, through its City Attorney, objects to any authorization for rerouting of cars on Delmas Avenue and on Willow and First Streets, alleging that such rerouting would further complicate traffic congestion on First Street if the heavy type of cars in use on this line of the Peninsular Railway were to be operated on such street, and that no franchise was held by applicant permitting operation on First Street.

We have carefully considered all the evidence in this proceeding and the exhibits filed herein. The limited local patronage accorded the through line between San Jose and Los Gatos via Campbell, does not, in our opinion, justify the considerable expenditure necessary for the rehabilitation of the line, particularly to the extent necessary if the paving proposed on Bird and Coe Avenues is to be undertaken upon order of the city and county authorities. The present financial condition of the applicant does not justify the additional capital expenditure necessary to properly rehabilitate the line and care for the additional paving costs and construction necessary in connection with such paving. There is no present, or immediate future, prospect of sufficient passenger traf-

fic being developed on the portion of the line herein proposed to be abandoned to produce a fair return on the amount of expenditure necessary to place the portion of the line in proper operative condition, including paving, after meeting the expense of operation and current maintenance. We are of the opinion that the application should be granted and the diversion of routing from the present line to a routing of the San Jose - Los Gatos via Campbell through cars over Willow Street and Delmas Avenue should be authorized. The order which will be made herein will require that the consent of the proper authorities be obtained as to the relinquishment of any portions of franchise routes herein authorized discontinued.

O-R-D-E-R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being fully advised and basing its order on the findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the application of the Peninsular Railway Company, a corporation, for authority to abandon service and remove its rails and equipment on Bird Avenue, Coe Avenue, and Lincoln Avenue between the intersection of Lincoln Avenue and Willow Street, as same are located in the City of San Jose and the County of Santa Clara; and to hereafter operate its San Jose - Los Gatos (via Campbell) through cars over Willow Street and Delmas Avenue, be and the same hereby is granted; provided, however, that this order

shall not become effective until there shall have been filed with the Railroad Commission certified copies of formal relinquishment of such portions of franchises as are effective covering the portion of line herein authorized abandoned, and certified copies of acceptance and consent as to relinquishment of the portions of franchises by the governing bodies of the political subdivisions heretofore having granted such franchises.

Dated at San Francisco, California, this 14th day of November, 1922.

H. B. Blanding

W. A. Rouse

J. F. Medsker

Commissioners.