

Decision No. 11488

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

EDWIN H. WILLIAMS,

Complainant,

-vs-

SOUTHERN PACIFIC COMPANY,  
a corporation,

Defendant.

CASE NO. 1652.

ORIGINAL

Edwin H. Williams in propria persona,  
Complainant.

E. J. Foulds and J. E. Lyons, for  
Defendant.

Morrison, Dunne & Brobeck, by A. L. Whittle,  
and J. P. Fetter, for San Francisco-  
Oakland Terminal Railways, Intervenor.

BY THE COMMISSION:

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

In this proceeding Edwin H. Williams complains of Southern Pacific Company and objects to the discontinuance of certain passenger train service operated between Oakland Pier and the stations of Fruitvale and Stonehurst, in Alameda County, such train service being commonly known as the "Stonehurst Local" and consisting of eight round trips daily, and the substitution therefor of a service of two round trips daily. Complainant alleges that the service rendered is a part of the "Ferry and Electric Train Service" operated by defendant between San Francisco, Oakland and the district served in Stonehurst and Fruitvale; that no other passenger service can successfully compete with the service as heretofore furnished by defendant to this district; that the service proposed to be partially discontinued has been operated for some fourteen years and that the com-

munity served has been developed by the operation of such service, and that investment in improvements made in reliance upon a continuance of the service will in large part be destroyed by the proposed discontinuance of a portion of the scheduled service; that it is reasonable to assume a large increase in future traffic by reason of the proposed establishment of large industrial plants in the district now served by the present train service; that it is proposed to establish a freight service over the tracks heretofore used by the passenger service and that it will be necessary to continue the maintenance of the tracks to provide for said freight service; that it is unjust and unfair to the public to allow defendant to preserve its franchise by permitting a limited passenger operation; that a dangerous grade crossing with the tracks of the Western Pacific Railroad Company would be eliminated if the line were to be discontinued and removed, and that such grade crossing should not be continued as a hazard of accident to permit defendant to enjoy a franchise not exercised fully for the public benefit; and that much of the expense of operation of the "Stonehurst Local Service" is due to the failure of defendant to install a modern and efficient service in lieu of the alleged antiquated and inefficient steam train service. The prayer of the complaint is for an order of the Railroad Commission requiring a continuance of the "Stonehurst Local" service on a schedule of sixteen trains per day, or if such relief is not granted that the defendant be required to discontinue all passenger service over said line and forfeit its franchise.

Defendant, Southern Pacific Company, filed its answer herein denying the material allegations of the complaint and alleging that the "Stonehurst Local" cannot be operated on a schedule other than two round-trips per day except at a loss, and that the service heretofore performed was not compensatory nor were

the revenues received therefrom sufficient to cover the cost of performing the service.

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

Petitions signed by 331 residents and property owners in and about the districts of Stonehurst, Elmhurst and Fitchburg protesting against the reduction in service were filed with the complaint herein.

Witnesses for complainant testified as to the increase in population and general growth of the district tributary to and served by the trains of the "Stonehurst Local" line; that the service rendered by the Traction Division of the San Francisco-Oakland Terminal Railways to and from Oakland and a connection with the Key Division service of such company was unsatisfactory during the hours of peak travel; that property values in the district had depreciated since the curtailment of the "Stonehurst Local" service.

From exhibits filed by defendant in this proceeding the following data reflects passengers carried, revenue derived and expense of operation during the period September to December, 1920, inclusive, and for the month of July, 1921:-

<u>Month</u>	<u>Passengers Carried</u>	<u>Revenue</u>
September, 1920	9095	\$ 487.00
October, 1920	10637	539.00
November, 1920	10161	492.00
December, 1920	9849	493.00
July, 1921	8368	406.00
Average	9625	484.00

In compiling the above statement all six-cent cash fares collected by conductors were credited to the line and also a proportion on a mileage pro-rate of ticket sales and cash fares collected from through passengers. Two-thirds of suburban ticket sales to and from the station of Elmhurst are credited to

the "Stonehurst Local" line trains and those of the electric line based on road miles.

The expense of operation, covering only items of actual operating cost (including enginemen's wages, trainmen's wages, fuel oil, locomotive lubricants, train supplies and expenses, car repairs, enginehouse expense, locomotive repairs and locomotive supplies) based on August, 1921, fuel and labor prices amounts to \$2,527.00 per month, or a deficit from operation of \$2,043.00 per month over the average monthly revenue appearing in the above tabulation. No claim has been made for any items of general expense, traffic expense, maintenance of way and structures, station expense, taxes or interest on investment, only the minimum expenses directly incurred in the operation of the passenger train service being those included in the item of expense. It is apparent that the operation of the train service herein protested as to its curtailment is not compensatory and has been conducted at a material deficit over the amount received as revenue.

The San Francisco-Oakland Terminal Railways, intervenor herein, presented testimony as to its ability to satisfactorily serve the locality by the street cars operating on its Traction Division cars leaving Stonehurst on a ten minute headway, both east and westbound. Cars leave Stonehurst at nine, twenty-nine and forty-nine minutes past the hour, arriving at Melrose, where Southern Pacific Electric trains can be secured for San Francisco at four, twenty-four and forty-four minutes past the hour. Transfers can also be made at Forty-first Avenue and Broadway to the Key Division trains connecting with the Key System Ferry of intervenor to and from San Francisco. Mr. J. P. Potter, Superintendent of Transportation for Intervenor, San Francisco-Oakland Terminal Railways, testified that his company had the necessary facilities enabling adequate service to be rendered to all

patrons who previously have used the "Stonehurst Local" trains that have been discontinued.

In addition to the service of the San Francisco-Oakland Terminal Railways, the public served by the Southern Pacific station at Elmhurst have the service of six trains in each direction to and from Oakland and San Francisco and the two round trips remaining on the "Stonehurst Local" lines.

The matter of reduction in train service on the "Stonehurst Local" line was originally brought to the attention of the Commission by an informal request on behalf of the defendant and authority was thereafter issued for the reduction of the train service to a schedule of two round trips per day, the supporting data accompanying the informal request for diminution of service showing that the trains were being operated at a direct cost of approximately five and one-half times the revenue that was derived from their operation, such fact indicating that the business originally handled by these trains had been diverted to either other trains of the defendant or to the service of its competitor, the San Francisco-Oakland Terminal Railways.

We have given careful consideration to all the evidence in this proceeding and hereby find as a fact that the operation of the sixteen trains per day as formerly scheduled by defendant on its "Stonehurst Local" line is not justified by the patronage accorded such trains, it appearing that the revenue derived from such operation meets but a fractional portion of the direct cost of operation and allows nothing for the expense of maintenance of way and structures, traffic expense, general expense, taxes, nor any return on the investment devoted to this service. It does not appear, from the evidence herein, that there are any present or immediate future prospects of an increase in traffic

on this line justifying the continuance of the former scheduled service, or that such continuance of service would result in revenue which would even approximate the direct expense necessarily incurred in the operation of such service. The evidence presented herein and of record, is conclusive as to the expense of operation far exceeding the revenue thereby derived. It further appears that other methods of transportation are available for the patrons of defendant heretofore using the trains on the "Stonehurst Local" line and that the competitive company offering to furnish a portion of such substitute transportation is willing and able, . if necessary, <sup>to</sup> so increase its facilities and service as to satisfactorily care for any additional demand thereon which may be occasioned by the diversion of this traffic to its lines

Complainant has asked, in his prayer for relief, that if it be determined herein that a reduction in the train service on the "Stonehurst Local" line be permitted that all passenger service on such line be ordered discontinued and the franchise forfeited. An order compelling the forfeiture of a franchise, under such conditions, would be in excess of the Commission's jurisdiction as prescribed by the statutory law.

#### O-R-D-E-R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the find-

ing of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this 9<sup>th</sup> day of January, 1923.

H. B. Brundage  
Dwight Martin  
C. S. Seaver

J. T. Whittier  
Commissioners.