

ORIGINAL

Decision No. 1583

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. J. Gill,

Complainant,

vs.

San Francisco-Oakland Terminal
Railways,

Defendant.

Case No. 571

Walter J. Burpee for complainant
George W. Mordecai, Jr., for defendant.

GORDON, Commissioner.

O P I N I O N

The complainant in this case, the president of the Board of Trustees of the City of San Leandro, in Alameda County, asks the Commission to establish a fare of five cents over the lines of the San Francisco-Oakland Terminal Railways between any point in the City of Oakland and any point in the City of San Leandro, with present transfer privileges within the City of Oakland, and thereby to modify its order of March 24, 1913, in Application No. 324, and in Cases Nos. 347, 348 and 352, requiring the San Francisco-Oakland Terminal Railways to establish a passenger fare of five cents between points within the City of Oakland and Davis Street in San Leandro, with the present transfer privileges at points within the City of Oakland.

The complainant contends that the fare established by order of the Commission in the above cases discriminates against those residents of San Leandro residing east of Davis Street, who, it is alleged, constitute four-fifths of the entire population of

that city, in that such people are compelled to pay five cents more for transportation to or from Oakland via the line of the defendant than the residents of San Leandro living west of Davis Street.

It is also urged that the defendant is required by law to run all regular cars operating between Oakland and San Leandro to the easterly limit of the latter city; that said cars are at present so operating, regardless of the small volume of the traffic which is the result of the additional fare between Davis Street and the easterly limit of San Leandro on traffic to or from Oakland, as most of such passengers walk to and from Davis Street and board or leave the cars at that point rather than pay the additional five cent fare, and, therefore, the extension of the eastern limit of the Oakland-San Leandro five cent fare zone to the easterly line of the City of San Leandro would not make necessary the running of any additional cars, the employment of additional crews or any change in the time schedules and would entail no inconvenience or loss of revenue to the carrier.

The defendant denies all of the material allegations of the complaint, and by cross complaint asks the Commission to modify its order heretofore issued in Application No. 324 and in Cases Nos. 347, 348 and 352, so that the five-cent fare will apply only between points within the municipality of Oakland. As the interested parties herein are not the same as those in Application 324 and in Cases Nos. 347, 348 and 352, and as the latter were not served with the answer and cross-complaint and therefore did not have due notice of the application of the defendant herein for a modification of the Commission's former order, the cross complaint of the defendant will not be considered in this proceeding and should be dismissed. If the defendant desires to apply to this Commission for a modification of the order heretofore made by it, the proper procedure to bring the matter before the Commission is by an original application under section 63 of the Public Utilities Act.

It appears from the record that Davis Street intersects the City of San Leandro about midway between its eastern and western limits, being about 4500 feet from the easterly and about 4400 feet from the westerly line, and while the evidence seems to conclusively indicate that the great majority of people living in San Leandro reside east of Davis Street, this is not a condition which has arisen since the Commission considered the matter of defendant's fares between Oakland and San Leandro and fixed Davis Street as the limit of the five cent fare to and from Oakland. There was also some evidence introduced to show that the majority of people traveling from Oakland to San Leandro leave the cars at Davis Street and when traveling from San Leandro to Oakland boarded the cars at Davis Street and in doing so were put to the necessity of walking an average distance of four or five blocks, and, while it is contended that this is a result of ^{the} fare adjustment the evidence does not justify the conclusion that this condition would not continue to a great extent were the five cent fare to and from Oakland made to apply from and to the easterly limits of San Leandro. Because the residents of San Leandro residing west of Davis Street can travel to or from Oakland for a fare of five cents while those residing east of Davis Street must pay ten cents, does not indicate that an undue preference is given the former as against the latter. If such a condition conclusively established discrimination and the five cent fare between Oakland and San Leandro was made to apply to and from the easterly limits of San Leandro, as the complainant asks, then the people living east thereof would be discriminated against in the same manner as those residents of San Leandro residing east of Davis Street now claim to be discriminated against.

While it is true that the resolution of January 23, 1907, of the Board of Trustees of San Leandro, authorizing the city attorney to amend an existing franchise so as to grant to the defendant herein authority to construct a double track on Hayward Avenue in the City

of San Leandro, was conditioned in part upon the carrier's running all regular cars to the easterly limits of the city of San Leandro, which it does at the present time, such a condition does not appear in the franchise granted to the carrier for this purpose, and it could, to meet the requirements of the public or for its own convenience, operate all its cars through to Hayward and thereby remove the main cause here alleged as a reason why the fares should be extended to the easterly limit of San Leandro. Again, one half only of the cars operating through San Leandro turn back at the easterly boundary line of that city and the balance operate through to Hayward and, if the five cent fare were extended to the easterly limit of San Leandro and made to apply only on such cars as are turned back at that point, the arrangement would not only be confusing but perhaps discriminatory.

It is my opinion that the present manner of the operation of the cars is not a reason why the five cent fare to and from Oakland should be extended to the easterly limit of San Leandro.

It is my opinion that the complainant in this case has not sustained the burden placed upon him by the Public Utilities Act of showing that the present fare between Oakland and points in the City of San Leandro east of Davis Street is unjust, unreasonable or discriminatory, or has shown sufficient reason why the Commission's order heretofore made should be modified; and I am, therefore, of the opinion that the complaint should be dismissed, and I recommend that it be so ordered.

I submit herewith the following form of order:

O R D E R

J. J. Gill having filed complaint with this Commission against the passenger fare of the San Francisco-Oakland Terminal Railways applying between Oakland and San Leandro east of Davis Street, and a hearing having been held and being fully apprized

in the premises, and basing its order on the findings in the preceding opinion,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that the complaint be and the same is hereby dismissed.

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 ^{11th} 3rd day of June, 1914.

H. H. Boland

Alex Gordon

Max Thelen

Commissioners.