

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the Peninsular Railway Company for an order to cancel all theatre round trip fares applying to Palo Alto, San Jose, Los Gatos; also to increase from thirty-five to fifty cents Sunday and legal holiday excursion rates applying from Palo Alto, Mayfield and Los Altos to Congress Springs.

Application No. 970

Palo Alto Chamber of Commerce,

Complainant,

vs.

Case No. 593

Peninsular Railway Company and Southern Pacific Company.

Defendants.

City of Palo Alto and Town of Mayfield, Intervenor and Cross Complainants.
City of Los Gatos, Intervenor.

S. W. Charles for Palo Alto Chamber of Commerce
Wm. F. James for Peninsular Railway Company
C. W. Durbrow for Southern Pacific Company
N. E. Malcolm for City of Palo Alto and Town of Mayfield.

EDGERTON, Commissioner.

O P I N I O N

These proceedings grew out of an application filed by the Peninsular Railway Company seeking authority of the Commission to cancel all theatre round trip tickets applying from points on its line to Palo Alto, San Jose and Los Gatos and to increase the Sunday and holiday round trip excursion rates from thirty-five cents to fifty cents applying from Palo Alto, Mayfield and Los Altos to Congress Springs and return. The City of Palo Alto and the Town of Mayfield intervened and protested against the granting of the application and filed a cross complaint attacking as unreasonable certain practices of the defendant, Peninsular Railway, as well as practically all passenger rates. The Chamber of Commerce of Palo

Alto filed a complaint attacking as unjust, unreasonable and discriminatory all passenger rates applying to and from Palo Alto. At the hearing the application and various complaints and cross complaints were heard at the same time.

The applicant maintains so-called theatre round trip rates from various points on its line to San Jose, Los Gatos and Palo Alto and the testimony is that these rates were established for the purpose of encouraging travel to the larger cities to attend theatres in the evening hours. These rates are considerably lower than the regular rates and tickets are sold only after 6:00 p.m. Applicant contends that these lower rates have not stimulated enough traffic to justify their continuance and that they are unremunerative. The following are a few examples of these theatre rates:

<u>From</u>	<u>To</u>	<u>Dist. in Miles</u> <u>Round trip</u>	<u>Rate in</u> <u>cents</u>	<u>Rate in cents</u> <u>per mile</u>
Los Altos	Palo Alto	10.8	\$0.20	1.85
Cupertino	"	23.8	.50	2.1
Palo Alto	San Jose	41.8	.50	1.2
Saratoga	"	22.6	.30	1.33
Meridian	Los Gatos	19.8	.35	1.77
Campbell	"	11.4	.25	2.2

The applicant submits statement Exhibit No. 13, which indicates that the car mile earnings on such of its trains as handle theatre tickets after 6:00 p.m. are 21.32 cents and further shows that the average operating expense for the month of March, 1914, was 22.24 cents and for April, 22.14 cents, in each instance slightly in excess of the actual receipts. It is, of course, idle to take the passenger business of a railroad and attempt to segregate it as between the earnings in daylight and at night, for each passenger traveling, whether in the daytime or night, should pay a reasonable rate which should contribute reasonably to the support of the property.

In consulting the Annual Report of the Peninsular Rail-

way we note that the operating revenues per car mile for the fiscal year ending June 30, 1914, amounted to 23.568 cents and the operating expenses 21.745 cents, and it is with these figures for the entire operations, both in daytime and at night, that we are primarily interested.

It is alleged in the cross complaint of the City of Palo Alto and the Town of Mayfield and the complaint of the Chamber of Commerce of Palo Alto that the Peninsular Railway is owned, controlled and operated by and in the interest of the Southern Pacific Company and that the line should not be regarded as an independent property, but as a feeder of the holding company.

When a branch line is constructed by a large system the road building the branch does not ordinarily expect this branch to pay operating expenses and a reasonable return on the investment. These branch lines are usually constructed for the purpose of developing traffic, and while it is desirable from a railroad point of view that a branch be as near self-supporting as possible, it is the traffic contributed to the main line, and not the purely local traffic to and from branch line points, that induces the construction of the branch, and this is, no doubt, one of the reasons counsel for complainants and intervenors sought to establish the fact that the Peninsular Railway is an independent property in name, but in reality is operated in the interest of the Southern Pacific Company and is nothing more than a branch of that system.

That the Southern Pacific owns all of the outstanding capital stock of defendant is admitted. However, it would be a most unusual situation to find the rates on a branch line constructed on a lower basis than on the main line. In fact, the various railroads have constantly urged before this Commission

the propriety of a higher scale of rates on the branch lines than on the main line and the Commission recognizing the justice of such a contention has allowed a somewhat higher scale of rates on the branch lines in many instances. Therefore, if we are to treat this property as a branch of the Southern Pacific Company system and not as an independent line, the rates might be higher than they are to-day.

It is not clear how cross-complainant, City of Palo Alto, arrives at the conclusion that a just and reasonable rate would be 1-1/2 cents per mile for passengers carried on the Peninsular Railway, particularly if we are to consider this line as a branch of the Southern Pacific Company where the main line rates of the latter company are on a higher basis except in the instance of commutation rates. The City of Palo Alto, in paragraph 7 of its cross-complaint, requests the Commission to determine the reasonableness of the passenger rates of the Southern Pacific Company between Palo Alto and San Francisco and to consider the Peninsular Railway rates in connection with these rates.

We have already had before us in the case of the San Mateo County Development Association vs. Southern Pacific Company, and the Palo Alto Chamber of Commerce vs. Southern Pacific Company, Cases Nos. 574 and 595, the question of reasonableness of passenger fares on the line of the Southern Pacific Company between San Francisco and San Jose, and it will, therefore, be unnecessary to consider these rates in these proceedings.

Certain phases of the contentions of the City of Palo Alto, Town of Mayfield and the Chamber of Commerce of Palo Alto that the Peninsular Railway is operated in interest of the Southern Pacific Company and should not be considered as an independent property depending wholly on local traffic for its support strike me as having considerable merit. I refer particularly to the fact that various trains of the Peninsular electric road from Palo Alto to San

Jose leave Palo Alto for San Jose a few minutes after the arrival of a Southern Pacific train from San Francisco also destined to San Jose. It is apparent that the Peninsular road with its longer mileage to San Jose and slower time cannot expect to handle much business between Palo Alto and San Jose if its train schedules are arranged in such a manner as to induce no travel over its line.

The following schedule shows the time of the trains leaving Palo Alto for San Jose on both the Southern Pacific and Peninsular lines, also the arriving time at San Jose:

SOUTHERN PACIFIC COMPANY SCHEDULE

Miles		A.M.	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	P.M.
0	Lv. Palo Alto	5.45	7.31	*8.07	9.54	12.50	2.27	3.58	5.28
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.
		6.06	*6.13	6.47	*7.15	7.32	9.16	10.31	12.47
16.8	Ar. San Jose	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	P.M.
		6.35	8.05	8.43	10.30	1.30	3.03	4.30	6.05
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	A.M.
		6.38	6.45	7.20	7.50	8.05	9.50	11.00	1.20

*Daily except Sunday

xSaturday only

PENINSULAR RAILWAY SCHEDULE

0	Lv. Palo Alto	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.
		6.55	*7.40	*7.50	9.00	10.00	12.30	2.28
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	A.M.
		4.16	5.09	6.15	7.15	9.20	11.10	12.47
20.9	Ar. San Jose	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.
		7.51	8.37	8.50	9.58	11.00	1.28	3.25
		P.M.	P.M.	P.M.	P.M.	P.M.	A.M.	A.M.
		5.17	6.07	7.15	8.13	10.18	12.08	1.28

*Daily except Sunday

xSunday only

It will be noted from this schedule that many of the Peninsular trains leave Palo Alto for San Jose shortly after the departure of the steam trains of the Southern Pacific Company,

Which bears out the contention of complainants that the Peninsular Railway is operated as a connection with the Southern Pacific Company.

It is apparent that the Peninsular Railway Company expect little or no business between Palo Alto and San Jose on such a schedule, as the business is bound to gravitate to the line making the best time. It is likewise apparent that the reason why the Peninsular Railway runs its trains from Palo Alto shortly after the departure of a Southern Pacific train from San Francisco to San Jose is that such departure affords a good connection for passengers reaching Palo Alto on the Southern Pacific and destined to points on the Peninsular line intermediate to San Jose, such as Los Altos, Monte Vista, Meridian, Saratoga and Congress Springs.

The fact also that the Southern Pacific Company has practically abandoned all its steam service on the cut-off between Mayfield and Los Gatos and hires the Peninsular Railway to perform that service for it, further strengthens the conclusion that the operating schedules out of Palo Alto on the Peninsular Road are designed to care for traffic delivered it by the Southern Pacific Company and not to secure any appreciable volume of the local traffic either between Palo Alto and San Jose or Palo Alto and intermediate points. If, therefore, the Peninsular Road is not operated in such a manner as to secure all of the traffic possible, it can hardly plead that we allow the same rates as we would to a company operated to its maximum efficiency.

Before considering the question of discriminatory rates in favor of San Jose, which is really the principal cause of complaint on the part of the City of Palo Alto and which is based on the theory that the lower rates to San Jose having been voluntarily established are in and of themselves reasonable, I will endeavor to dispose of the minor contentions advanced by the

various complainants and protestants.

The application of the Peninsular Railway to cancel round trip theatre tickets on sale after 6:00 P.M., should, in view of all the evidence, be permitted.

An application to increase the round trip excursion rates on sale Sundays and legal holidays between Palo Alto, Mayfield and Congress Springs should be denied, it appearing that no attempt is being made to increase the round trip excursion rates between Congress Springs and San Jose.

Palo Alto and vicinity is rapidly increasing in population and no good reason was advanced by the applicant why the rates from Palo Alto and vicinity to Congress Springs, and the application to increase the rate from Palo Alto and Mayfield should not only be denied but the defendant should be required to maintain excursion rates on the same basis as from San Jose.

The complaint of the City of Palo Alto alleging that no commutation rates are in effect and no commutation tickets sold between Palo Alto and Stanford University and that this subjects patrons of the Peninsular line traveling between these points to great inconvenience is, in my opinion, without merit. The fare between Palo Alto and Stanford University is 5 cents and I see no reason why a lower fare by sale of commutation tickets, or otherwise, should be expected.

It is also alleged that the transfer requirements of the defendant are unreasonable in the City of Palo Alto. The Commission does not look with favor upon a proposal to compel a carrier to issue transfers which will be honored at any points except where the connecting lines cross or meet, nor do I believe any carrier should be required to issue transfers that will permit passengers to practically return to their starting point.

Ordinarily the rates of interurban lines are made from depot to depot notwithstanding such interurban lines frequently

own city lines doing a street car service in the various communities, but if in this case the defendant issues transfers to interurban passengers which enables them to travel beyond the depot to points reached by the city car lines then no just reason exists why the same privilege should not be extended to the citizens of Palo Alto.

Another contention of the complainants is that the round trip excursion tickets advertised for sale on special occasions are only sold at the depots of the defendant and should be sold by the conductors. This is a very serious proposition. In some cases it might be entirely reasonable to have the conductor sell a form of round trip ticket and in other instances it might not only be extremely inconvenient but subject the passengers to undue hazard by reason of the conductor's time being occupied selling tickets instead of properly operating his car.

I am not willing to recommend that electric lines generally be required to place excursion tickets in the hands of conductors to sell. There may be instances, as I have heretofore stated, where this could be done without inconvenience or risk, but it is impossible to lay down any general rule. Many serious accidents have occurred due to the fact that conductors were busy collecting tickets and either overlooked train orders or failed to properly flag their trains. The danger of such occurrences would be greatly increased were the additional burden of selling tickets to be placed on the conductors when traffic is heavy. I believe it safer to leave this matter in the hands of the carriers with the suggestion that whenever possible and without unduly burdening the conductor, round trip tickets should be sold by him.

This brings me to a consideration of the principal cause of complaint, namely, discriminatory rates in favor of San Jose as against Palo Alto, the rates to San Jose, and in some

instances to Los Gatos, being deemed reasonable and therefore the rates to and from Palo Alto deemed unreasonable.

The complainants introduced a large amount of testimony showing the effect of these lower rates to San Jose on the business of Palo Alto.

Of course, a lower scheme of rates to San Jose has a tendency to draw business to that city. San Jose is now and has been for many years a natural shopping center for the territory closely adjacent to it and would probably hold a greater share of this business even though the rates be exactly the same to other towns. However, it is not the business of this Commission to foster trade for a particular community by countenancing discriminatory rates. The tariffs of the defendant, as well as the testimony of its own witnesses, establish conclusively the fact that the rates to and from San Jose, and in some cases to Los Gatos, are on a much lower basis than to Palo Alto. The explanation of the defendant concerning this condition was that the low rates were originally put in effect by the promoters of the Los Gatos Interurban Road running between San Jose and Los Gatos via Congress Junction and that when the Peninsular Railway was organized and took over this property it naturally inherited whatever rates were then in effect.

It was strenuously maintained that these rates are too low and that in constructing the line from Meridian north to Palo Alto an effort was made to put the rates in that territory on a reasonable basis although no attempt appears to have been made to harmonize the rates all over the system, and as a result, we have to-day one system of rates applying into San Jose and a higher system into Palo Alto.

A very important point in connection with this controversy must not be overlooked, and that is, that the rates out of San Jose are influenced by a rate of 5 cents for a distance of

3.6 miles to Bascome and 5 cents between San Jose and Cherry Avenue on the Campbell-Los Gatos line for a distance of 3.6 miles. This is what has been termed street car territory, but the same may be said of the fare of 5 cents between Palo Alto and Mayfield Junction for a distance of 2.1 miles. To determine the extent of the discrimination in favor of one locality as against another we should first eliminate the mileage as far as this 5 cent fare zone carries a passenger and build up the rates from that point on.

The City of Palo Alto is a thriving and growing community and no good reason appears why the rates should be any higher into Palo Alto than to San Jose or Los Gatos for approximately the same distance and service. Therefore, I am of the opinion and so find that the rates of all kinds, namely, single trip, round trip and commutation rates should be based on exactly the same rate per mile between all of these communities, first considering, of course, the proper influence that those 5 cent fares in street car territory would have on rates to or from points beyond. Because of the complete revision of all rates which will necessarily follow I will not attempt to prescribe the same at this time.

I will, therefore, recommend that the defendant be required to submit to the Commission within forty (40) days from date hereof schedule of passenger fares not inconsistent with the findings in this opinion.

I submit the following order:

O R D E R

Peninsular Railway Company having filed an application with this Commission for permission to cancel all theatre round trip fares applying to Palo Alto, San Jose and Los Gatos from various points on its line and for permission to increase from

35¢ to 50¢ Sunday and holiday round trip fares from Palo Alto, Mayfield and Los Gatos to Congress Junction and a regular hearing having been had, and

City of Palo Alto, Town of Mayfield, and Chamber of Commerce of Palo Alto having filed a complaint with this Commission attacking as unjust, unreasonable and discriminatory all of the passenger fares of the Peninsular Railway applying between Palo Alto and Mayfield and various points on the Peninsular Railway, and a regular hearing having been had,

IT IS HEREBY FOUND AS A FACT that in the respects and to the extent pointed out in the foregoing opinion, the rates and charges of defendant are discriminatory.

Basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

IT IS HEREBY ORDERED that the Peninsular Railway be and it is hereby granted authority to cancel said round trip theatre tickets, and, further, that permission to increase round trip fares from Palo Alto, Mayfield and Los Gatos to Congress Junction is hereby denied.

IT IS HEREBY FURTHER ORDERED that the Peninsular Railway within forty (40) days from the date hereof submit to this Commission for approval a schedule of rates in accordance with and not inconsistent with the findings hereinbefore set out in the opinion which precedes this order.

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 20th day
of April, 1915.

Max Thelen
H. H. Wood
W. H. Gordon
Edwin O. Edgerton
Hans R. Dehn

Commissioners.