

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

UNITED RAILROADS OF SAN FRANCISCO,)

Complainant,)

v.)

PENINSULA RAPID TRANSIT COMPANY,)

Defendant.)

Case No. 835.

William Abbott for complainant.
J. E. McGurdy for defendant.
Hamilton A. Bauer for San Mateo County
Advancement League, Intervenor.

THEREN, Commissioner.

O P I N I O N

In this complaint, this Commission is asked by United Railroads of San Francisco to assume jurisdiction over Peninsula Rapid Transit Company. A public hearing was held in San Francisco on September 20, 1915. San Mateo County Advancement League was given permission to intervene and to present argument on the question of jurisdiction. The case is now ready for decision.

United Railroads of San Francisco is a California corporation which is engaged in the business of operating a street railroad within the City and County of San Francisco. The company also operates an interurban electric line from Fifth and Market Streets, in San Francisco, partly on the public highways and partly over private rights of way through Daly City, Millbrae, Easton, and Burlingame, to the City of San Mateo.

Defendant is a California corporation which is engaged in the business of operating auto busses between a point near the

intersection of Fifth and Markets Streets, in San Francisco, along the public streets and highways, following a course closely paralleling that of the United Railroads of San Francisco to San Mateo. The company charges a fare of 25 cents for the journey between San Francisco and San Mateo, with a graded schedule applying to intermediate points. Persons desiring to travel in defendant's auto busses are taken on at points intermediate between the termini, to the capacity of the auto busses. Defendant admits that it is a common carrier of persons to the capacity of its auto busses, between San Francisco and San Mateo, as the term "common carrier" is defined at common law and in Section 2168 of the Civil Code, but denies that it is a "common carrier" as that term is defined in the Public Utilities Act, and denies that it is in any way subject to the jurisdiction of the Railroad Commission. Complainant asks that this Commission compel defendant to file its rates and charges, to secure a certificate of public convenience and necessity and to comply in all other respects with the provisions of the Public Utilities Act.

The arguments in favor of and against this Commission's jurisdiction over agencies such as the defendant herein have been fully set forth in this Commission's decision in Case No. 827, Western Association of Short Line Railroads vs. E. M. Hackett, et al., in which case the decision is this day being rendered. The only material difference in fact between the Hackett case and the present case is that Hackett and his partner carry freight, while the defendant herein carries passengers. It will not be disputed that this difference in fact has no bearing on the question of this Commission's jurisdiction.

For the reasons which are fully set forth in the decision in Case No. 827, I am of the opinion that this Commission has no jurisdiction to entertain the present proceeding, and for that reason recommend that the same be dismissed.

I submit the following form of order:

ORDER

A public hearing having been held in the above entitled proceeding, and the Railroad Commission finding that it does not have jurisdiction,

IT IS HEREBY ORDERED that the above entitled proceeding 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 30th day of September, 1915.

Max Shelton

H. D. Loveland

Alex Gordon

Edwin O. Edgerton

Franz R. O'Brien
Commissioners.