

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Decision No. 2921

ORIGINAL

In the matter of the application of the San Diego and Southeastern Railway Company, for an order authorizing certain increases in passenger fares and freight rates, and for authority to alter certain rules and regulations and classifications so as to bring about increases in fares and rates.

) Application No. 1752

The City of Chula Vista, a municipal corporation,

vs

) Case No. 843

San Diego and Southeastern Railway Company.

E. E. Sanborn, R. G. Dilworth and Arthur Roehl, for applicant, Johnson T. Puterbaugh, for City of National City, Intervener, F. B. Andrews, for City of Chula Vista, Intervener, Wright Winnek & McKee, for Pacific Building Co., Intervener, S. E. Sweitzer, for John Murtaugh, et al, Intervener, Riley and Hesketh, for Independent Stone Co., Intervener, Geo. J. Leovy, for San Diego Stone Co., Intervener, Ches. Crouch, for Fenton Sumption Barnes Co., Intervener, O. T. Helpling, for Riverside Portland Cement Co., Intervener.

LOVELAND, Commissioner.

O P I N I O N

Application No. 1752 filed by the San Diego and Southeastern Railway Company, hereinafter referred to as the Company, seeks authority, under Section 65 of the Public Utilities Act, to make a general revision of its freight tariffs increasing practically all freight rates, class and commodity, and also revising its passenger tariffs increasing many of its fares.

The application alleges that the Company is not earning operating expenses, and, that the increases in rates which it desires to put into effect will produce only sufficient revenue to cover such expenses and interest on unfunded debt without giving any consideration to return upon other capital invested in the property.

Case No. 845 is a complaint entered by the City of Chula Vista wherein it calls into question the reasonableness of the present passenger fares between San Diego and Chula Vista. It also places in issue the adequacy of the service being rendered between the two cities.

The application and the case were heard together and it was stipulated that all testimony and exhibits would be considered as applying to both proceedings.

The City of National City and City of Chula Vista intervened, protesting against the proposed increases in passenger fares and freight rates between those cities and San Diego. The Pacific Building Company, and John Murtaugh, et al., of San Diego, intervened and protested against proposed increase in fare of 5 cents to 10 cents between points within the City of San Diego and the eastern city limits. The Independent Stone Company, San Diego Stone Company and Fenton Sumption Barnes Company protested against proposed increases in rates on Sand, Gravel, Stone, Crushed Rock, etc., from various points to San Diego and Coronado. Riverside Portland Cement Company protested against the granting of increases in cement rates. This last protest, however, was withdrawn at a subsequent hearing without evidence having been introduced.

The Company prepared its case in great detail and presented for the Commission's consideration a mass of statistical information taken principally from its annual reports. These hearings extended over a period of six days resulting in 839 pages of transcript and the introduction of many exhibits both by the Company and the interveners. Oral arguments were made by counsel and the case is now ready for disposition.

The issue is of great importance to the Company and to the public and although the Company at this time is only contending for sufficient revenue to pay its operating expenses, it must necessarily disturb rates, many of which have been in effect

for years. For the fiscal year ending June 30, 1915, the property failed to earn expenses by \$86,287.21, and this application was presented in an effort to prevent future deficits.

The Company's history, its capitalization and organization and certain elements entering into the value of its property are carefully set forth in our Decision No. 1383, Case No. 189, In the Matter of Ascertaining the Value of the San Diego and Southeastern Railway Company, (Vol. 4, Opinions and Orders of the Railroad Commission of California, Page 539), rendered March 30, 1914. This decision is pertinent to these proceedings and therefore is quoted in part as follows:

"The San Diego and Southeastern Railway Company was incorporated under the laws of the State of California on March 2, 1912, to take over the properties and obligations of the San Diego and Cuyamaca Railway Company and the San Diego Southern Railway Company, both of which are now legally dissolved. The history of the physical properties which now constitute the San Diego and Southeastern Railway Company is interesting and intricate, and can be traced back as far as the years 1886 and 1887, when the first serious attempts were made by San Diego residents to give to their city a direct rail connection with the East. A complete investigation into the entire history of the Company appears in the Commission's engineering department's valuation report, and it does not seem necessary to here review this history in all its details. It will suffice to say that the present company inherited the properties and obligations, as far as they were in existence, of the following prior companies:

- Coronado Railroad Company, organized April 7, 1886.
- National City and Otay Railway Company, organized December 28, 1886.
- San Diego and Cuyamaca Railway Company, organized August 30, 1887.
- Otay Railway Company, organized September 26, 1887.
- San Diego, Cuyamaca and Eastern Railway Company, organized March 6, 1888.
- National City and Otay Railway Company (Cons), organized October 1, 1888.
- San Diego Southern Railway Company, organized July 1, 1908.
- San Diego and Cuyamaca Railway Company, organized July 19, 1909.

The present Company is one of a group of San Diego organizations known as the "Spreckels Companies", because of the predominance of J. D. Spreckels in their control. These companies are as follows:

- San Diego Electric Railway Company;
- Southern California Mountain Water Company;
- Coronado Water Company;
- San Diego and Coronado Ferry Company;
- San Diego and Coronado Transfer Company;
- United Light, Fuel and Power Company;
- San Diego and Southeastern Railway Company;
- San Diego and Arizona Railway Company;
- Coronado Beach Company;
- Hotel Del Coronado;
- Coronado Tent City;
- Coronado Plumbing Company.

"The same group of men occupy in general the same positions on the directorates and as officers of all these companies. They are as follows:

J. D. Spreckels, president;  
W. Clayton, vice-president and managing director;  
H. L. Titus, secretary and attorney;  
Claude Spreckels, treasurer;  
B. M. Warner, general superintendent;  
A. H. Kayser, general auditor;  
Geo. Holmes, purchasing agent.

The first four, together with C. L. Bundy of Los Angeles who represents a group of Los Angeles capitalists, constitute the board of directors of this company. This, the youngest of the group, is thus not entirely a Spreckels Company, inasmuch as a considerable portion of the common stock of the company is held by Los Angeles people. The rest of the stock is held by John D. Spreckels.

The San Diego and Southeastern Railway Company comprises 73.54 main track miles of standard gauge steam and electric railways located in, and radiating in northerly, easterly and southerly directions from, the city of San Diego. The system consists of five principal units or branches of various lengths and is entirely confined within the limits of San Diego County.

The road as at present operated is divided into two divisions, the Southern Division (formerly the San Diego Southern Railway Company) and the Eastern Division (formerly the San Diego and Guayama Railway Company). A statement of the total track mileage of the company is as follows:

\* \* \* \* \*

In addition to the track mileage shown on this statement (73.54 miles of main track), the San Diego and Southeastern Railway Company operates an electric car over 1.55 miles of the San Diego Electric Railway Company's tracks in San Diego, making a total operated mileage of 75.09. Of this mileage there is operated by steam 61.76 miles and electrically 13.33 miles. The 13.33 miles consist of the 1.55 miles above mentioned of the San Diego Electric Railway Company's tracks and of 11.78 miles of main line on the Southern Division from the intersection of Thirteenth and "L" streets, San Diego, to Otay.

The character of the lands traversed by the various lines of this system may be divided into two general classes, viz, lands within incorporated cities, and suburban, rural and country lands. Of the first class there are six incorporated cities, being San Diego, National City, Chula Vista, Coronado, La Mesa and El Cajon. The character of these city lands does not correspond to what is usually understood by this term, and, instead of comprising built-up residence communities, the lands traversed are for the greater part sparsely built up, and in many cases merely low, marsh lands. The suburban territory reached by the lines of this company is constituted of small ranches and platted acreage tracts, including small unincorporated towns and villages of various sizes and improvements. The rural and country lands reached by the road are of various kinds and comprise orange and lemon groves, grain, farming, pasture, grazing, marsh, rocky,

hilly, canyon and waste lands.

\* \* \* \* \*

"A considerable portion of the San Diego and Southeastern Railway, and principally the original National City and Otay Railway, is merely a suburban traction railway occupying city streets by virtue of franchises, and otherwise possessing very few rights of way. The length of track laid down totals approximately 16.7 miles.

As noted heretofore, this company operates with both steam and electricity. The electric portions of the road do a passenger business almost exclusively, while on the steam portion of the system freight constitutes the most important item of traffic on the road. The principal freight commodities seem to be stone, sand and other like articles, constituting more than 82 per cent of the total freight tonnage hauled by this road in the year ending June 30, 1913.

The San Diego and Southeastern Railway Company's authorized capital stock consists of 16,500 shares of common stock of the par value of \$100.00 each, or a total authorized capitalization of \$1,650,000.00. The entire authorized capital stock was issued as the purchase price for the properties of the San Diego Southern Railway Company and the San Diego and Cuyamaca Railway Company, the immediate predecessors in interest of the present corporation. Stock to the par value of \$770,000.00 was paid for the Cuyamaca line and is now held by Los Angeles people, while stock to the par value of \$880,000.00 was paid for the San Diego Southern property, and is held by John D. Spreckels, the president of the present company. There is no bonded indebtedness.

It seems pertinent to point out here the relation between the capitalization of this property and its value. The "reproduction value" of the entire operative property, as will appear later, is estimated by the engineering department of the Commission at \$2,285,874.61 and the "present value" at \$1,912,754.20, while the total capitalization has a par value of only \$1,650,000.00. This is an unusual state of affairs with public utilities. We find as a rule that the capitalization is largely in excess of either cost or reproduction value. Looking at the company from this point of view, its financial condition appears to be quite satisfactory. It does not become necessary to trace the financial history of the predecessors of the present company back to the beginning, as the last consolidation of these roads undoubtedly squeezed out whatever water there may have been in former capitalizations.

It should also be added here that since the incorporation of the present company, on March 2, 1912, expenditures were made for additions and betterments totaling \$259,519.04, of which \$81,087.90 was expended for acquisition of rights of way, station grounds and real estate.

The company has declared no dividends since its organization, but the sum of \$39,191.42 appears as a credit charge against profit and loss in the annual report of the company for the year ending June 30, 1913."

The San Diego and Southeastern, as heretofore stated, was organized in 1912. For some years prior to the final consolidation the property was under two companies, the San Diego and Cuyamaca Railway Company and the San Diego Southern Railway Company. Exhibit No. 54 gives the combined income and expenditures of the properties for the years 1909, 1910, 1911 and 1912. A brief analysis of this period of four years is illuminating.

San Diego and Cuyamaca Railway Co.  
San Diego Southern Railway Co.

Fiscal Years ending June 30, 1909, 1910, 1911 and 1912.

<u>Operating Revenues</u>	<u>1909</u>	<u>1910</u>	<u>1911</u>	<u>1912</u>
Freight Revenue	\$91,605.20	\$119,966.10	\$155,573.99	\$181,342.95
Passenger Revenue	113,551.20	129,481.58	156,452.64	178,744.78
Other Operating Revenues	<u>6,487.70</u>	<u>19,686.28</u>	<u>21,085.44</u>	<u>30,196.85</u>
Total Operating Revenues	211,644.10	269,153.96	335,112.07	390,284.58
 <u>Operating Expenses</u>				
Maintenance of Way and Structures	36,230.87	44,851.76	47,639.81	64,309.22
Maintenance of Equipment	34,550.22	45,802.41	53,918.64	63,494.11
Traffic	3,209.11	3,444.31	3,482.72	4,744.95
Transportation	81,986.25	94,777.10	110,880.17	130,239.12
General	<u>20,018.66</u>	<u>20,182.21</u>	<u>22,229.30</u>	<u>27,403.41</u>
Total Operating Expenses	175,995.09	209,057.79	238,150.64	290,190.81
Net Profit	35,649.01	60,076.17	94,961.43	100,093.77
Non-Operating Revenue	<u>330.71</u>	<u>1,304.78</u>	<u>2,044.13</u>	<u>2,972.25</u>
Total Net Profit	35,979.72	61,380.95	97,005.56	103,066.00
Taxes	<u>5,216.01</u>	<u>5,897.91</u>	<u>7,505.42</u>	<u>12,720.00</u>
Operating Profit	30,763.71	55,483.04	89,500.14	90,346.00
Interest	33,000.00	24,250.00	25,000.00	6,250.00
Miscellaneous Deductions	<u>5,731.19</u>	<u>2,879.01</u>	<u>2,369.51</u>	<u>4,923.11</u>
Net Profit or Deficit	*7,967.48	28,354.03	62,130.63	79,172.89

\*Deficit.

Financial Exhibits Nos. 6 and 7 introduced at the hearings show gross income from operation and from other sources, together with the expenses and fixed charges for the years 1913, 1914 and 1915. From an analysis of these reports it is possible to accurately determine the monies received and the disposition that has been made of the same.

The following condensed statement gives a picture of the financial situation of San Diego and Southeastern Railway Company for the fiscal years, ending June 30, 1913, 1914 and 1915:

<u>Operating Revenue</u>	<u>1913</u>	<u>1914</u>	<u>1915</u>
Freight Revenue	\$251,363.00	\$209,667.16	\$159,872.12
Passenger Revenue	171,733.64	151,717.85	120,024.73
Other Operating Revenue	25,597.54	24,518.55	25,536.57
Total Operating Revenue	428,693.98	365,705.36	305,455.42
<u>Operating Expense</u>			
Maintenance of Way & Structures	86,997.14	67,025.35	99,820.72
Maintenance of Equipment	75,163.85	69,653.80	63,176.69
Traffic Expenses	7,404.08	4,047.77	8,060.60
Transportation Expense	178,103.83	157,828.43	141,001.50
General Expense	30,151.02	41,479.17	39,649.18
Transportation for Investment Cr.	-	-	*1,596.92
Total Operating Expense	377,819.97	340,034.52	350,111.77
Net Profit or Deficit	50,874.01	25,668.84	*44,678.35
Non-Operating Revenue	319.50	2,716.23	3,589.77
Total Net Profit or Deficit	51,193.51	28,385.07	*41,088.58
Taxes	16,500.00	21,125.10	18,167.62
Operating Profit or Deficit	34,693.51	7,259.97	*59,256.20
Interest on Unfunded Debts	5,972.06	13,364.87	21,835.52
Miscellaneous Deductions	5,258.22	2,177.62	5,197.49
Net Profit or Deficit	23,485.25	*8,282.52	*66,287.21

\*Deficit.

Ratio of operating expense to gross operating revenue	88.1%	92.9%	114.6%
Ratio of operating expense and deductions to total income	94.5%	102.2%	127.8%

It will be noted by comparing the two statements that the income and expenditures fluctuate very materially. In 1909 total freight revenue was \$91,605.20, in 1913, it had risen to \$251,363.00, and in 1915 dropped back to \$159,872.12. In 1909

passenger revenue was \$115,551.20, in 1912 it was \$178,744.78, and in 1915, \$120,024.73. The expenses show almost continual increases. Maintenance of way in 1909 was \$35,250.67, in 1913 \$86,997.14 and in 1915, \$99,820.72; maintenance of equipment in 1909 was \$34,550.22, in 1913, \$75,163.85, in 1915 \$65,176.69; conducting transportation (salaries of train crews, etc.) in 1909, \$81,986.25, in 1913, \$178,103.88, and in 1915 \$141,001.50.

As indicated by Exhibits 6 and 7, the year 1913 resulted in a profit of \$23,463.23, the year 1914, a loss of \$8,232.52, and the year 1915 a loss of \$86,287.21, or a net loss for the three years of \$71,056.50. For the year 1915 the operating revenue was \$44,672.55 less than the operating expenses. The Company has no bonded indebtedness, but paid interest in the sum of \$21,855.52 on its unfunded debt of \$337,596.51 for the fiscal year 1915.

It is to be noted that the salaries and expenses of the general officers are not excessive. This is accounted for by the fact that these officers act for all of the Spreckels Companies receiving a part of their salaries from each company; the general superintendent, for instance, being allowed but \$500 per annum by the San Diego and Southeastern Railway Company, other officials in like proportion.

Exhibit No. 10 gives scale of wages for 1912 and 1915 showing the increases granted to employees in the operating department for various classes of labor ranging from 6 $\frac{1}{2}$ % to 39%, - for example: Yard engineer from \$3.75 to \$4.00 per day = 6 $\frac{1}{2}$ %; passenger firemen from \$2.50 to \$3.00 per day = 20%; freight brakemen from \$2.75 to \$3.25 per day = 18%; passenger conductors (steam) from \$3.50 to \$4.25 per day = 25-2/5%; freight firemen from \$2.50 to \$3.25 per day = 30%; roadmaster from \$90.00 to \$125.00 per month = 39%.

No attempt will be made to discuss all of the freight rates involved. Such a discussion of individual items would unnecessarily lengthen the report. A careful comparison of the proposed commodity rates on those commodities moving in sufficient



quantities to effect the revenue has been made by our rate department and it is found that in nearly every instance the proposed rates are as low or lower than the rates charged on the same commodities by the Atchison, Topeka and Santa Fe Railway between points in Southern California of equal distances. Referring particularly to the Sand, Gravel and Crushed Rock rates - the proposed rates being 50¢ per ton for distances under 5 miles, 40¢ under 10 miles, 47¢ under 26 miles and 54¢ under 45 miles. On the Santa Fe the rates on these commodities to and from San Diego are as follows:

From San Diego To	Miles	Rate Per Ton	To San Diego From	Miles	Rate Per Ton
Morena	5	.50			
Pacific Beach	6	.50			
La Brea	8	.50	Seiwyn	13	.40
Del Mar	23	.50			
Cardiff	27	.60	Linda Vista (sand only)	14	.45
National City	6	.50			

The same situation is true of manure - the highest rate proposed by applicant is 60¢ per ton for 18.6 miles, San Diego to Santee, while the rate on this commodity between all stations, 30 miles and under, on the Santa Fe is 65¢ per ton.

Beet Pulp - S.D. & S.F.

From San Diego To	Miles	Present Rate Per Ton Wet or Dry	Proposed Rate Per Ton Dry Only Shipped
El Cajon	15.4	.50	1.15
Santee	18.6	.50	1.15
Foster	25.0	.50	1.40

A.T. & S.F. Ry. Dry Beet Pulp

From Santa Ana To	Miles	Rate Per Ton
El Toro	15	1.20
Galivan	17	1.40
Serra	24	1.80

Feed C.L. - S.D. & S.E. Ry.

From San Diego To	Miles	Present Rate	Proposed Rate
Chula Vista	8.7	.65	.90
Otay	11.9	.70	1.00

A.T. & S.F. Ry.

From San Diego To	Miles	Rate
La Drillo	8	.80
Selwyn	13	1.20

Lumber C.L. - S.D. & S.E. Ry.

From San Diego To	Miles	Present Rate		Proposed Rate	
		Per 1000 ft.	Equal Per Ton	Per 1000 ft.	Equal Per Ton
El Cajon	15.4	1.00	.60	1.80	1.08
Santee	18.6	1.25	.75	2.00	1.20
Lakeside	21.7	1.25	.75	2.10	1.26
Foster	25.0	1.50	.90	2.20	1.32

A.T. & S.E. Ry.

From San Diego To	Miles	Rate Per Ton
Linda Vista	14	1.00
Sorrento	18	1.20
Del Mar	23	1.20
Cardiff	27	1.40

Hay C.L. - S.D. & S.E. Ry.

To San Diego From	Miles	Present Rate	Proposed Rate
Otay	11.9	.70	1.00
Scannells	14.6	.75	1.20
San Ysidro	15.8	1.00	1.20
Santee	18.6	1.05	1.30
Lakeside	21.7	1.10	1.35
Foster	25.0	1.15	1.40

A.T. & S.F. Ry.

To San Diego From	Miles	Rate
Selwyn	13	1.20
Linda Vista	14	1.20
Sorrento	18	1.40
Del Mar	23	1.40
Cardiff	27	1.60

Intervenors protested vigorously against the increases on Sand, Gravel and Rock, and introduced much testimony and many exhibits. The Company also produced exhibits and by the testimony of its managing director reviewed the history of the rates. It appears that prior to November 1912 the rate on these commodities to San Diego from practically all quarries was 50 cents per ton. The reduction in November 1912 was to 40 cents per ton. This change, as testified to by Mr. Clayton, was made as a matter of policy to assist in the building up of San Diego and without careful consideration as to the effect it would have on the profits of the Company, also it was implied when the reduction was made that same was to go to the consumer. The results have not proven satisfactory. The three principal shipping points are Barnes, Sweetwater Quarry and Spring Valley. The old rates and the proposed rates per ton are as follows:

From	To	Miles	Prior to Nov. 1912	Nov. 1912	Proposed
Barnes	San Diego	11.7	-	.40	.47
Sweetwater Quarry	San Diego	15.2	.50	.40	.47
Spring Valley	San Diego	10.1	.50	.40	.47

The Company and the intervenors made many comparisons of the proposed rates on rock, etc., with those in effect on the Southern Pacific Company, Santa Fe and Pacific Electric Railway, in California, also in the state of Oklahoma, Kansas, Illinois, Michigan and Iowa, but to determine the reasonableness of rates consideration must be given to all the elements surrounding the movement of traffic and not solely to the rates of railroads differently situated. A basis of rates entirely reasonable on the Southern Pacific Company or the Atchison, Topeka and Santa Fe Railway might be entirely too low on a system such as the San Diego and Southeastern.

Consideration must also be given as to whether or not the density of traffic and volume of business in the territory

of the San Diego and Southeastern compare favorably with other lines. A comparison of the Atchison, Topeka and Santa Fe (C.L.), for fiscal year ending June 30, 1915, with the San Diego and Southeastern shows that the Santa Fe receives an average of \$2.15 for each ton of freight handled, the average haul being 170.9 miles, while the applicant receives an average of .50889 per ton for an average distance of 13.37 miles.

Operating Revenue and Expenses  
Both Freight and Passenger Trains

	<u>A.T. &amp; S.F. (C.L.)</u> <u>Per Train Mile</u>	<u>S.D. &amp; S.E.</u> <u>Per Train Mile</u>
Operating Revenue	2.36	.72
Operating Expenses	1.70	.83
Net Operating Revenue	.66	*.11

\*Less than actual operating expenses.

Protestants urge that under the advanced rates they cannot sell their products at a profit. If this is so it is manifestly because of natural or other advantages possessed by their competitor; however, it is a well established rule that commissions cannot make rates based solely upon the needs of the shipper.

It would seem that the proposed rates on Sand, Gravel and Rock as set forth in the application are reasonable per se and should be permitted to go into effect. The other proposed freight rates, both class and commodity, and the rules and regulations governing same, have been carefully analyzed in connection with the testimony and exhibits. They have been compared with rates on other lines operating under similar conditions and apparently they are not excessive. It is therefore recommended that all of the proposed freight rates be permitted to go into effect subject to further investigation upon proper complaint that any individual rate or set of rates is excessive, discriminatory or unreasonable.

Passenger Fares:

The Company proposes to place its passenger fares on a uniform basis, viz, 3 cents per mile for one-way fares with a minimum of 10 cents on the steam roads, and 2 cents per mile on the electric roads, with a minimum of 5 cents; the fares in connection with the electric lines between San Diego and outside points to be based on 5 cents to 31st Street, San Diego, plus 2 cents per mile from that point, adding the odd cents to make the next multiple of 5. The basis for the proposed commutation fares is:

- $1\frac{1}{2}$  cents per mile for 20-ride family.
- $1\frac{1}{2}$  cents per mile for 60-ride family.
- 1 cent per mile for 60-ride individual.
- $\frac{3}{4}$  cent per mile for 46-ride childrens.

This adjustment will reduce all one-way fares on the eastern division, (steam), between San Diego and Foster, and is expected to attract traffic which on account of the present rates of 4 and 5 cents per mile is now moving via automobile bus.

The present fare between 3d Street and City Limits, both points in San Diego, is 5 cents, which the applicant seeks to increase to 10 cents. A witness testified that the 5 cent fare had been in effect since 1887, and it is shown in the first tariff filed with this Commission, effective December 28, 1908. Section 27 of the Public Utilities Act provides that not more than 5 cents shall be charged within the corporate limits of any city unless justified. It is not found that any justification has been shown for a change in this rate and following previous decisions, it is recommended that authority to make this increase be denied.

The fares on the electric line between San Diego - City Limits and all stations as far as Chula Vista, if the application were granted, would be increased by 5 cents, except at National City where the increase proposed is from 5 to 15 cents, at Sweetwater Junction from 10 to 20 cents, and at Chula Vista, 5th Street, from 15 to 25 cents. Between intermediate points there will be increases and decreases. The commutation fares will be somewhat increased. Testimony opposing the increases in fares was introduced by counsel

representing National City, Chula Vista and the territory in San Diego located between 31st Street and City Limits.

A situation is presented extremely difficult of solution. The San Diego and Southeastern Railway System is composed of seven lines, which were formerly independent, which were purchased by Spreckels Bros., in 1912, and consolidated, now forming the system of the applicant.

The exhibits and the sworn testimony of witnesses for applicant show that the earnings of the road for the year 1915 do not equal operating expenses by something over \$64,000 and that the interest on the unfunded debt is about \$22,000, making a total deficit of \$86,000 for the year.

Applicant, as previously stated, does not ask for any returns upon the investment but only for operating expenses and interest on the unfunded debt. The increases asked in the freight rates have been most carefully considered by the Commission and have been found to be reasonable. Such increases in the freight rates will aggregate approximately \$14,000 per annum, still leaving a deficit in net revenue and interest on unfunded debt of \$72,000 per annum, which applicant asks be made up by increases in passenger rates. The one-way passenger rates on the line from San Diego to Foster are at present on a four and five cent per mile basis, and applicant believes that some reduction in these rates, or in other words, putting them upon a three cent per mile basis will result in such increased travel as to bring larger net returns. The Commission is of the opinion that such will probably be the result and approves the schedule of passenger rates asked for on the line to Foster, and also the changes proposed in the commutation rates on that line, some of which will result in slight advances.

Practically the only part of the system left, from which to realize the remainder of the deficit amounting to \$72,000, is the line from San Diego to Otay and to Mia Juana, passing through National City, Sweetwater Junction and Chula Vista.

The testimony at the hearing developed the fact that in January 1909 the City of National City granted to the San Diego Southern Railroad, the predecessor of applicant, a franchise to maintain a railway through the city. It was orally agreed between the Board of Trustees and the railroad that within five years from the date of the franchise there would be established a fare of 5 cents between National City and San Diego. In October 1912, the Trustees of National City requested that the 5 cent fare be put into effect and after a conference and some correspondence the rate was reduced from 10 to 5 cents, effective January 1, 1913. This change voluntarily made has not proven a success, the Company alleging that the loss in revenue amounts to approximately \$10,000 per annum. Applicant now requests that it be permitted to limit the 5 cent fare to 51st Street in San Diego, charge 10 cents to City Limits, 10 cents to 6th Street in National City, and 15 cents to 24th Street in National City. These increases asked over present rates amount to from one hundred to two hundred per cent.

The Commission feels very deeply the obligation resting upon it to protect the interests of the residents along this line, many of whom have doubtless been led to settle there by reason of the promises made by applicant as to the fares they would be required to pay, but it is equally true that the Commission is under obligation to consider that applicant cannot be expected to continue to serve the public at rates which return far less than operating expenses. The situation must be viewed from all of its different aspects and a decision arrived at which, while perhaps satisfactory to none, will as nearly as possible represent the equities of the situation. In viewing the matter in this way the Commission has not been unmindful of the fact that the operating expenses of this system have increased largely under the present management, but as the result of such increase in operating expense a greatly improved service has been given.

It might be that by operating this system as it was form-

erly operated, running less comfortable trains and cars with less frequency, some of the increases in passenger rates herein granted could be avoided but on that point the Commission is inclined to believe that if the choice were left to the people who reside along and patronize this line either to return to the old service and accommodations and retain the fare of 5¢ or keep the present service and pay a fare of 10¢ they would prefer the frequent trains and better service. If upon further consideration, however, the people of these towns are inclined to think differently, the Commission will be glad, upon an application for rehearing <sup>to further</sup> /consider this question. It should be remembered that but two of the original units of this system ever paid a dividend and the testimony at the hearing showed that the amount paid in such dividends should have been properly expended in maintenance, (see transcript hearing of September 2, 1915, page 25), which would indicate that a return to the old abbreviated and unsatisfactory service might not result in applicant's earning operating expenses.

The Commission cannot see its way clear to grant applicant all that it prays for at this time.

The ownership of the San Diego and Southeastern Railway Company rests with people who have very large interests in and about San Diego. The value of those interests, it will readily be granted, depends very largely upon the prosperity of the City of San Diego and that, in turn, depends upon the prosperity of the surrounding country. San Diego and territory contiguous thereto, in common with all other sections of the Pacific Coast and indeed of the whole United States, has suffered in the past year or two by the general depression for which neither the public nor the public utilities which serve it are responsible. In justice and equity all should bear a share of the burden caused by the general business depression. In addition to this the freeze of January, 1913, which so injured the lemon trees as to largely reduce that crop, has affected <sup>not only</sup> /the prosperity of the people but the freight and passenger revenues of applicant.



No one will deny that all should help to bear a loss like this, resulting from the act of God.

Still another reason which may be given to justify the Commission in believing that applicant herein should bear its share of the loss incidental to its operation is that the whole system of transportation in and around San Diego is owned by the same interests that own the San Diego and Southeastern Railway, and a loss on one line is frequently a gain to another line. Furthermore, if the situation were new today, that is, if no lines of transportation existed in San Diego, it would be extremely doubtful if applicant, or any one seeking to engage in serving the public, would build such lines as they now exist, and, while it may be said that applicant did not build them but purchased them in their present arrangement, it is nevertheless true that applicant made such purchase knowing the situation as it is and is therefore as responsible for the duplication of facilities and for the ownership of non-compensatory lines as though it had built them.

The Commission has given careful consideration to the possibility of discontinuing operating of any portion of this system, with a consequent saving in operating expenses, but the only part of the system which could be so treated is the line from Coronado Junction to Coronado, of which line can be expected but little business in the future owing to the fact that the movement of rock, sand and other material for building streets in Coronado is practically completed, but the testimony shows that the operation over this line, at the present time, is intermittent - a train being run only when it is necessary, and that the upkeep is very small so that practically but little saving could be made by its abandonment.

It is perhaps elementary to say that if the territory through which a road runs produces but little traffic it stands to reason that that road must charge rates high enough to support it, otherwise it will go out of existence. This statement, however, is qualified by the recognized truth that the patrons of public utilities,

because of the small amount of business they are able to offer the company, may be absolutely unable to pay such rates as would return to the company even operating expenses to say nothing of returns upon the investment. The circumstances surrounding each case must be carefully considered and final judgment based upon the facts presented in each case. If, as shown by the record in this case, it appears that the revenues of the utility have been larger in the past and may be expected to be larger in the future such utility may well be expected to share with its patrons the results of the present depressed condition. This principle is announced by Commissioner Thelen of this Commission in the case of W. J. Rogers and Central Pacific Land and Lumber Company vs. Sacramento Valley West Side Canal Company and William F. Fowler, Receiver of the property of Sacramento Valley West Side Canal Company, Case No. 597, and in Sacramento Valley Realty Company, et al., vs. same defendants as above, Case No. 675. I quote the principle as laid down by Commissioner Thelen and his citations in support thereof:

"Another element which must be taken into account in establishing the rates in this case is the ability of the consumer to pay. It is a well established principle of public utility regulation that whatever rates might be secured from the application of the usual principles of valuation, a public utility can in no event charge a rate which is beyond the reasonable ability of its consumers to pay. The rates must be reasonable to the utility, but they must, in any event, be reasonable to the public.

In Covington & L. Turnpike Road Co. vs. Sanford, 164 U.S. 578, the Supreme Court of the United States was considering the reasonableness of maximum rates to be charged by the Covington & Lexington Turnpike Road, as established by the General Assembly of Kentucky. At page 596, Justice Harlan says:

'The public cannot properly be subjected to unreasonable rates in order simply that stockholders may earn dividends.'

Again on the same page:

'If a corporation cannot maintain such a highway and earn dividends for stockholders, it is a misfortune for it and them which the constitution does not require to be remedied by imposing unjust burdens upon the public.'

"In the leading case of Smythe vs. Ames, 169 U.S. 464, the same learned justice, at page 547, says:

"What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth."

These cases clearly establish the principle that the rates to be charged by a public utility must in no event be higher than the service is reasonably worth to the public. It is unnecessary for me to point out that they do not hold that the utility can charge up to the maximum of what the consumer can pay."

The Commission accepts with regret the necessity for approving an advance in the fare to National City in view of the direct promise of applicant to make that fare 5¢, but is forced to the conclusion that a careful analysis of all of the circumstances of the situation will justify the decision reached herein.

The findings and order will be made without prejudice to further investigation by this Commission as to reasonableness of rates and fares approved herein after the results are known.

As before stated, the Commission, cannot see its way clear to grant all that applicant asks but feels that the equities of the situation demand that authorization be given to increase the freight rates, also the passenger fares, with the exception that the passenger fares base on two cents per mile from City Limits station instead of 31st Street, San Diego. This will result, as before stated, in an increase in applicant's earnings on freight traffic of \$14,000, and on passenger traffic of \$32,000, or a total of \$46,000, still leaving \$40,000 of the deficit in earnings to be borne by applicant. In view of the fact, however, that the lemon crop will nearly approach a normal condition in 1916; that the competition from jitneys will probably be reduced by the regulations now imposed upon them by Ordinance; and the further and more important fact that indications now point to an improvement in general conditions all over the country, the Commission believes that that

part of the deficit which it is now deciding must be borne by applicant will be greatly reduced, if not entirely wiped out.

In Case No. 843, the City of Chula Vista applied for reductions in the single fares, and in the commutation fares; also for an improved train service. The testimony introduced does not sustain the case. Under the present conditions, with the Company earning less than its operating expenses, it is obvious that the fares should not be reduced. The contention that the service is inadequate has not been sustained by the evidence, neither is it proven that cars are overcrowded except on occasional trips during the rush hours of the day, and this is a condition existing on all roads operating in large cities for which satisfactory remedies have not in all cases been devised. I recommend that Case No. 843 be dismissed.

I submit the following form of order:

#### ORDER

The San Diego and Southeastern Railway Company having filed its application No. 1752 for authority to increase certain class and commodity freight rates, and to increase passenger fares, also to change the rules and regulations governing the same; and the City of Chula Vista having filed its complaint in Case No. 843 and by agreement these cases having been combined, and a hearing thereon having been held, and being fully apprised in the premises:

IT IS HEREBY ORDERED that Application No. 1752 be and the same is hereby granted, with the exception that the one-way passenger fare between San Diego, Third Street and City Limits, shall remain at five cents and that the one-way passenger fares to other points on the Southern Division shall be 2 cents per mile for electric road mileage and 5 cents per mile for steam road mileage over City Limits instead of over 51st Street, San Diego;

IT IS FURTHER ORDERED that Case No. 843, City of Santa  
Vista, be dismissed.

The foregoing opinion and order are hereby approved  
and ordered filed as the opinion and order of the Railroad Com-  
mission of the State of California.

Dated at San Francisco, California, this 11th day  
of December, 1915.

H. D. Loveland  
W. G. ...  
Edwin O. Edgerton  
Harold R. ...  
Commissioners