

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the Santa Barbara and Suburban Railway Company under Section 50 of the Public Utilities Act for a certificate that the present and future public convenience and necessity require the construction of a new street railroad in Santa Barbara and for a Certificate that Public Convenience and Necessity Require the Construction, Maintenance, and Operation of a Street Railroad under a Certain Franchise granted by the City of Santa Barbara to R. E. Gaud

ORIGINAL

Application No. 248.

- Harry J. Bauer, appearing for H. E. Trowbridge on behalf of R. E. Gaud and Santa Barbara and Suburban Railway Company.
- W. P. Butcher, City Attorney, representing City of Santa Barbara.
- Frank Smith, Vice-President, Chamber Commerce, for Santa Barbara Chamber Commerce.
- E. J. Boeseke, Mayor City of Santa Barbara.
- J. B. Henck, representing himself, appearing in protest.
- J. B. Henck, } City Councilmen, City of
- Mr. Fox, } Santa Barbara.
- Mr. McKnight, }

O P I N I O N.

LOVELAND, Commissioner.

The hearing on this application was held in Santa Barbara, California, on the 26th day of October, 1912. The testimony shows the following state of facts to have existed and as now existing.

In the year 1897, there were organized two street railroad companies in Santa Barbara, one the Santa Barbara Street Railway Company with two and one-half miles of track; the other the Citizens Railroad Company with a trackage of four miles. A few years later these companies were merged under the name of the Santa Barbara Consolidated Railway and the ownership was taken over by the United Electric Gas & Power Company.

At a still later date, about 1903, the Southern California Edison Company of Los Angeles purchased the United Electric Gas & Power Company, and the ownership of the Santa Barbara Consolidated Railway Company by this purchase passed to the Southern California Edison Company.

When the roads were originally built, as it was intended to operate them with horses or mules, the construction as to preparation of road bed, ties, ballast, etc., was light. The road was of a narrow gauge with light rails, and later when the mule cars were taken off and heavier electric cars installed it naturally developed that the road would not stand the strain and deterioration was rapid.

Interruption in the operation of the road caused by accidents and necessity for re-paving the streets rendered it impossible for the road to pay interest on outstanding bonds, and the testimony shows that for several years past the earnings of the road have not been sufficient to pay judgments rendered against the road on account of damage suits, expenditures for street paving and the interest on the bonds, to say nothing of any surplus for maintenance and depreciation.

Under these conditions, when further heavy expenses became necessary the management of the Edison Company in the East instructed its local company to discontinue payment of interest on outstanding bonds.

At this time several public spirited residents of Santa Barbara and vicinity undertook a re-organization with a view to re-construction and giving to Santa Barbara a well equipped electric line.

Having interested other men of means, the Santa Barbara and Suburban Railway Company was incorporated with a capital stock of \$500,000.00, divided into 5000 shares of the par value of \$1,000.00 each, all common stock.

Mr. R. E. Gaud, secretary of the re-organization committee, was instructed to apply for the re-organization committee, to the Common Council of the City of Santa Barbara, California, for a franchise to construct, equip and operate an electric railroad as set forth in the petition upon which this hearing was held, which franchise was granted on July 18, 1912.

Under Application No. 249, R. E. Gaud has asked

permission of this Commission to sell and convey said franchise to the Santa Barbara and Suburban Railway Company, which permission is granted as of this date.

The pleadings and testimony in this application show that a few days prior to the effective date of the Public Utilities Act, the Santa Barbara and Suburban Railway Company was incorporated with a capital stock of \$500,000.00, all common stock; that all of said stock was issued and transferred to R. H. Gaud; that at the same time the Santa Barbara and Suburban Railway Company authorized two bond issues, one of \$500,000.00, the bonds being of the par value of \$1,000 each, maturing March 15, 1937, bearing interest 6% per annum, and one of \$163,000.00, represented by 326 bonds of the par value of \$500.00 each, maturing March 15, 1942, bearing interest at the rate of 5% per annum. Of the authorized issue of \$500,000.00, \$250,000.00 were issued, and the testimony shows that applicant, the Santa Barbara and Suburban Railway Company, now has the sum of \$250,000.00 on hand to construct and equip the road. The whole amount of the second issue authorized, namely, \$163,000.00, was issued and given to the holders of bonds which had formerly been issued by the Santa Barbara Street Railway Company, the Citizens Railway Company, and the Santa Barbara Consolidated Railway Company, the Southern California Edison Company guaranteeing the interest on this issue of \$163,000.00 for five years.

The Los Angeles Trust & Savings Bank of Los Angeles took both issues of bonds, taking as security a first mortgage for \$500,000.00 for the \$250,000.00 issued, said mortgage containing a stipulation that no further issue of bonds under the \$500,000.00 worth authorized can be made until the net earnings for a period of twelve months preceding an application for further issue shall have been $1 \frac{5}{8}$ times the interest on outstanding bonds plus $1 \frac{5}{8}$ times the interest on the further issue applied for.

The mortgage or deed of trust also provides for a

sinking fund to extend from 1915 to 1936 to amount yearly to 2% of outstanding bonds. The issue of \$163,000.00 is secured to the Los Angeles Trust & Savings Bank of Los Angeles by a second mortgage or deed of trust for \$163,000.00, the interest of this issue for five years, as above stated, being guaranteed by the Edison Company.

It was clearly demonstrated at the hearing that in endeavoring to effect an organization which would insure the construction, equipment and operation of an up to date electric road in Santa Barbara, the bondholders of the companies which had formerly operated street railroad lines in Santa Barbara were shown that in the present dilapidated condition of the Santa Barbara Consolidated Railway line the company could not pay expenses and interest on its bonds and such bondholders were induced to accept the bonds of the Santa Barbara and Suburban Railway in lieu of their holdings in the former companies upon the condition that the Edison Company guarantee interest for five years.

I believe that it is due to the Commission and to the public, by reason of the interest which the public has in the work of the Commission, to say that the Commission does not view with approval this plain and successful attempt upon the part of the Santa Barbara and Suburban Railway Company to rush its incorporation, issue and disposition of stock, authorization and issue of bonds and disposition of a large amount of said bonds, through, before the effective date of the Public Utilities Act.

Neither does it view with approval the thought that the \$500,000.00 worth of stock, given to Mr. R. E. Gaud as a consideration for the transfer of the franchise procured by him from the City of Santa Barbara might possibly be sold to the public. The fact that the Santa Barbara and Suburban Railway Company has found it necessary to induce the Edison Company to guarantee the interest

for five years on \$163,000.00 of its bonds, issued under the second mortgage, would indicate that the prospect of stockholders receiving anything on their investment at an early date is remote.

This matter being brought up at the hearing, Mr. H. J. Bauer, attorney and witness for Applicant, stated under oath that he was authorized by the Directors of the Santa Barbara and Suburban Railway Company to stipulate with the Commission as one of the conditions of granting this order that the \$500,000.00 worth of stock of the Santa Barbara and Suburban Railway Company should not be sold to the public. The fact that Applicant, the Santa Barbara and Suburban Railway Company, did incorporate, issue and dispose of its \$500,000.00 capital stock, authorize a bond issue of \$663,000.00 and issue \$413,000.00 under such authorization, all of which was done just previous to the effective date of the Public Utilities Act, prevents the Commission from exercising authority over such acts of the company; but in view of Mr. Bauer's testimony that he was authorized to stipulate for the Directors of the Santa Barbara and Suburban Railway Company that the stock of that company should not be sold to the public without further application to and order of the Commission, the Commission feels that in accepting such stipulation and making it a condition of this order, it will be prepared at any future time, when application to sell such stock is made, to investigate and determine whether the earnings of the Santa Barbara and Suburban Railway Company will pay anything to stockholders after paying expenses, 2% yearly to sinking fund and interest on bonded indebtedness.

While the Commission has no desire to criticize the franchise granted by the City of Santa Barbara to Applicant, it desires to go on record at this time as believing that the limitation as to the age of school children who are allowed to ride at reduced fares is too strict, and that the age specified in other municipalities might well have been adopted.

Dealing with the situation as it is presented to the Commission, we find that the following conditions exist: The street railway in Santa Barbara is in a worn out, run down and dilapidated condition, wholly inadequate to the purpose it is supposed to serve. The Santa Barbara & Suburban Railway Company has received a franchise under which it has agreed to build, equip and operate an up-to-date electric road, and the testimony shows that it has the money for such construction and operation. The people of Santa Barbara are anxious to have the road built, and having been given an opportunity to vote on the matter voted by almost 3-1 in favor of having it built. At the public hearing, the City was represented by the Mayor, E. J. Boesoko, W. P. Butcher, City Attorney, Mr. Henck, Mr. Fox and Mr. Mc Knight, City Councilmen. In addition to these there were present in the neighborhood of fifty or more of the representative men and women of Santa Barbara. Councilman J. B. Henck was the only person who had any objections or criticisms, and in justice to him it must be said that his criticisms ran more to the acts of the Santa Barbara & Suburban Railway Company in rushing its incorporation and its issue and disposition of stock and bonds through with what he regarded as too great haste than to anything else.

There is no question but what present and future public convenience and necessity require and will require the building and operation of the road, and while there are some features of this matter or rather some transactions which have been had in connection with it of which we do not approve, we feel that believing the interest of the public will best be served by permitting the Santa Barbara & Suburban Railway Company to exercise the rights granted by the franchise to R. E. Gaud, and in view of the forcibly expressed wish of the people of Santa Barbara, we feel that we should authorize the Santa Barbara & Suburban Railway Company to exercise its franchise rights to build, equip and

operate the road.

I therefore recommend the following Order.

O R D E R.

WHEREAS, Mr. R. E. Gaud, has heretofore, to wit: on July 18, 1912, obtained from the City of Santa Barbara a franchise to construct, equip and operate an electric railway in the City of Santa Barbara;

AND, WHEREAS, it is shown by the testimony in the hearing that said franchise was obtained by said Gaud for the use and benefit of the Santa Barbara and Suburban Railway Company;

AND, WHEREAS, the Railroad Commission of the State of California, in passing upon Application No. 249 has authorized said R. E. Gaud to sell and transfer the said franchise to the Santa Barbara and Suburban Railway Company;

AND IT APPEARING, that the Santa Barbara and Suburban Railway Company is financially able to construct, equip and operate said road, and that present and future public convenience require and will require such construction, equipment and operation;

AND IT APPEARING FURTHER, that the people of Santa Barbara, having been given an opportunity to vote on the proposition, have by a majority of almost 3-1 voted in favor of having the Santa Barbara and Suburban Railway Company build, equip and operate the road, and the Commission having found that present and future public convenience and necessity require and will require the construction, equipment and operation of said road, and Mr. E. J. Bauer, attorney for Applicant, having stated at the hearing that he was authorized by Applicant to stipulate that the stock of the Santa Barbara and Suburban Railway Company should not be offered or sold to the public without further application to and permission of this Commission;

NOW, THEREFORE, BE IT ORDERED, that the Santa Barbara and Suburban Railway Company be and it is hereby authorized to

construct, equip and operate an electric railway in the City of Santa Barbara, California, and to exercise the franchise granted by the City of Santa Barbara to R. E. Gaud on July 18, 1912, and referred to in the application of the Santa Barbara and Suburban Railway Company to this Commission for such authorization.

IT IS FURTHER ORDERED, that inasmuch as E. J. Bauer, attorney for Applicant, evidenced his willingness to stipulate for the Applicant and for R. E. Gaud, that none of the \$500,000.00 par value of stock heretofore transferred to R. E. Gaud should be hereafter sold without permission of this Commission having been secured authorizing such sale on the conditions which the Commission shall find just and proper.

IT IS HEREBY ORDERED, that as a condition precedent to the permission granted herein to the Applicant that said Applicant and said R. E. Gaud, file with this Commission a stipulation agreeing not to transfer any of said stock without the permission of this Commission, or upon the terms other than those imposed by said Commission.

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 29th day of October, 1912.

John W. Ashleman
H. S. Stewart
W. G. Gordon
Max. Thelen
Commissioners.