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Decision No. _____ ORIGINAL

Decision No. 3948

BEFORE THE RAILROAD COMMISSION OF
THE STATE OF CALIFORNIA.

A. HUNSE,
Complainant,

-vs-

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS,
A Corporation,
Defendant.

Case No. 962

A. Hunse, In propria Persona

W. H. Smith Jr., for Defendant

F. D. Elwell, for Beulah Heights Improvement Club, Intervener.

BY THE COMMISSION.

O P I N I O N

This case was brought by A. Hunse, a resident of that portion of the City of Oakland known as Leona Heights, against the defendant a corporation engaged in operating the interurban railroad system between San Francisco and Alameda County points, commonly known as the Key Route System, and also certain electric railways in Oakland and other cities, for the purpose of compelling defendant to carry passengers from San Francisco to Leona Heights for 10¢, and for the further purpose of compelling defendant to maintain a twenty minute service at all times between Broadway at 22nd Street and Leona Heights.

The Beulah Heights Improvement Club appeared at the hearing as an intervener, asking this Commission

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to require defendant to issue $3.00 commutation tickets between San Francisco and Beulah Heights, a district adjoining Leona Heights; or if the Commission felt that $3.00 was not sufficient that it should then require defendant to issue either $3.50 or $4.00 commutation tickets between said points.

A public hearing was held in Oakland December 14th, 1916. There was practically no conflict of testimony and the issues presented by the pleadings may be considered in conjunction with the evidence.

It appears that a passenger going from San Francisco to Leona Heights takes defendant's Key Route line to Broadway at 22nd Street; he then, without receiving a transfer, boards the car running between 22nd Street and Leona Heights. This car carries the San Francisco passenger a distance of about 4½ miles along Broadway, East 13th and East 14th Streets to 41st Ave., without collecting any additional fares, but if a passenger continues on the car beyond 41st Ave. to Beulah Heights or Leona Heights, he is charged a five cent fare for the last mentioned portion of his ride, a distance of approximately 2½ miles. A passenger going from Leona Heights to San Francisco also has to pay a total of 15¢, the only difference being that he receives a ticket or transfer which he uses in changing from the Leona Heights car to the Key Route train at 22nd Street.

The complainant laid considerable stress upon his contention that if an Oakland passenger boarded the Leona Heights car at Broadway, he would pay 5¢ for being

carried to 41st Ave. and then would be carried free from 41st Ave. to Leona Heights, while a San Francisco passenger would be carried free from Broadway to 41st Ave. and would then have to pay 5¢ to be carried from there to Leona Heights.

This, in our opinion, is merely an unintentional misstatement of the fact that defendant carries passengers from San Francisco 12½ miles to 41st Ave. --but no farther-- for 10¢, and that it also carries passengers between all points in Oakland reached by its street-car service and Leona Heights for 5¢. It is no more reasonable to say that defendant is charging its Oakland passengers 5¢ to carry them from Broadway to 41st Ave. and is then carrying them free of charge from 41st Ave. to Leona Heights than it would be to say that defendant is charging them 5¢ for the first block it carries them and is carrying them free for all the rest of the distance; and certainly the fact that San Francisco passengers board the Leona Heights car at 22nd St and Broadway, without resorting to the use of a transfer, does not render that portion of their ride in the Leona Heights car a free ride any more than is the ride on defendant's electric train from the Ferry to 22nd Street a free ride.

In regard to intervener's contention for the $3.00 commutation rate, it is admitted that the present line between San Francisco and 41st Ave. represents the longest $3.00 commutation ride on the Key Route's entire system if measured by the actual length of the route traversed, but intervener contends that the shortest practicable route by any line

should be taken as the measure of distance; and in this connection it introduced a carefully prepared map to show that if defendant's line were built by as direct a route as the Southern Pacific's line to Melrose Station, the distance from San Francisco by said suggested route to Leona Heights would be less than 12 miles, while on one of the Southern Pacific suburban lines, on which a $3.00 commutation rate exists, namely the line between San Francisco and Thousand Oaks, Berkeley, the distance is 12.2 miles. As to this contention, we are of the opinion that in the first place the actual mileage travelled rather than the shortest possible route should be the governing factor in a case of this kind; and in the second place, we should be very slow indeed to require defendant to extend its suburban commutation rates beyond the points already served by it, unless the parties asking for such an extension affirmatively show that the existing rates are unreasonable, for as pointed out by Commissioners Eshleman and Gordon in Decision No. 1363 (Volume 5, Opinions and Orders of the Railroad Commission of the State of California, Page 555) in which the commutation rates of the Southern Pacific Company in Alameda County were exhaustively considered, the present commutation rates between San Francisco and Oakland, Berkeley and Alameda are very favorable to the inhabitants of Alameda County. On page 575 of that opinion, the Commission states:

> "We are of the opinion that the Company has been very considerate of the people of the east bay territory in the extension of its lines and the extension of its $3.00 commutation and 10¢ single fare rates. Such fares, when not voluntarily accorded, of course, must end somewhere. We are of the opinion that as to the portions of these east bay cities and Alameda County, other than those points

to which the $3.00 commutation rate and the 10¢ single fare rate have been heretofore voluntarily accorded or established, the Company should not be required to accord them".

As to complainant's contention that on said Leona Heights car line "between five and six o'clock A.M. and 8 o'clock P.M. there is a twenty minute service, and after 8 o'clock P.M. there is only " a forty minute service, whereas complainant requests that defendant should be compelled to maintain a twenty minute service at all times during which the trains are operated, complainant failed to prove that said forty minute service after 8 o'clock P.M. is inadequate, or that there would be sufficient traffic on said line to justify this Commission in requiring defendant to establish a twenty minute service throughout its entire operating period.

Complainant also introduced in evidence the fact that defendant's 12th Street car is connected with its 22nd Street cars at the ferry terminal, and that after boarding one of the 22nd Street cars at the ferry terminal, and unintentionally walking through the train to the 12th Street car, which latter was separated from the train afte r reaching Oakland, he was carried to 12th and Broadway and as no transfer was given for the Leona Heights car, he was then forced to pay an additional 5¢ fare in order to go to 14th Street and 41st Ave. on the Leona Heights car. If defendant has been operating its train in such a manner that such a mistake is a common occurrence, we should feel that it might be necessary to order some steps to be taken to protect the travelling public from having to pay an extra fare under these conditions; but Mr. George H. Harris, defendant's general superintendent, testified that it was the

rule of the Company that the door of the 12th Street car should be locked so that passengers could not pass from the 22nd Street car to the 12th Street car, and, apparently, complainant's statement at the hearing was the first notice defendant had received of such a mistake having occurred.

In our opinion the evidence failed to show that the travelling public has suffered any material inconvenience from defendant's failure to give tickets or transfers to such of its passengers as desire to take the Leona Heights car from 22nd Street to 41st Ave.; while, as Mr. Harris pointed out, only a small proportion of its passengers on the 22nd Street line take the Leona Heights car, and there might be some difficulty in providing each of these passengers with a transfer. Complainant and intervener have also failed to support their contentions that the existing rates are unreasonable or excessive, or that defendant should be required to establish a through commutation rate between San Francisco and Beulah Heights or Leona Heights.

We are of the opinion that the case should be dismissed.

O R D E R

A public hearing having been held in the above-entitled proceeding and the proceeding having been submitted and being now ready for decision, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

IT IS HEREBY ORDERED THAT the complaint in the

above-entitled proceeding be, and the same is, hereby dismissed.

Dated at San Francisco, California, this 26th day of December, 1916.

Max Thelen

W. J. Leonard

W. L. Landis

Edwin O. Edwards

Frank R. Wilson

Commissioners.