

Decision No. 5677.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
SAN JOSE RAILROADS, a corporation,)
for permission to abandon its narrow)
gauge line between Linda Vista and) Application No. 3817.
Teyon Stations, in the County of)
Santa Clara, State of California.)

Leib and Leib for Applicant.
L. H. Moise, Protestant.

O P I N I O N

LOVEHAND, Commissioner:

Applicant herein has requested authority to abandon a narrow gauge street railway running from Linda Vista Station on Alum Rock Avenue along Kirk Avenue to McKee Road and thence northerly over a private right of way to Teyon Station at a point near the Penetencia Road, all in the County of Santa Clara, it being alleged that the revenue derived from the traffic offered over this line does not justify its continued operation and maintenance and that a substantial financial loss has resulted from the operation of the line herein sought to be abandoned.

Public hearings were held in San Jose June 18th and July 9th, 1918, the matter was duly submitted and is now ready for decision.

The line herein sought to be abandoned is a portion of a line covered by a franchise granted on April 6th, 1891, by the Board of Supervisors of the County of Santa Clara to R. H.

Quincy for a narrow gauge railroad between the City of San Jose and Alum Rock Park, of which franchise the applicant herein is the present owner.

The line as at present operated is cared for by the use of a one man car and it appears that no possible additional economy can be effected by any revised method of operation which would be practicable.

A statement of the revenue and expenses of this line for the two years from March 1916 to February 1918, inclusive indicates an operating loss of \$4,612.48 for the period.

The territory over which the line operates is sparsely settled and apparently the present traffic does not justify the operation of the line. The physical condition of the line is poor and to rehabilitate same to a proper standard would require, according to applicant's estimate, the expenditure of approximately \$24,000.00.

The line was originally built as a part of a through line from San Jose to Alum Rock Canyon. In the year 1911 the Alum Rock Canyon portion of the line was destroyed by floods and such portion was never rebuilt. The Peninsular Railway Company, however, built a standard gauge line from San Jose via Berryessa to Alum Rock Park thereby furnishing an improved service between San Jose and Alum Rock Park. The portion of the line now proposed to be abandoned is 1.45 miles in length and is all that remains of the original narrow gauge line which extended from San Jose to Alum Rock Park via Linda Vista and Toyon.

Applicant has been required by the Commission to give notice of the hearings to interested parties living along the line for which permission to abandon was requested. At the hearing no one appeared to protest, but as it afterward developed.

this was due to a misunderstanding of the hour of the hearing. Within a few minutes after submission of the case and adjournment, a large number of interested parties appeared, desiring to protest against the abandonment of the line. In the interest of time, applicant stipulated through its Vice-President, Mr. Paul Shoup, its Manager, Mr. F. E. Chapin and its counsel, Leib & Leib, that the protest of those who had appeared after adjournment might be considered as of record in the case and permission was given them to supplement their general protest by any written data they desired to file. The substance of such protest is that applicant, or its predecessor, had asked for and received a franchise to build this line and that in doing so had assumed obligations to the people who invested their money in establishing homes contiguous to the line. They also claimed that the company did not treat them fairly when, after the flood referred to, it declined to rebuild the line in question and built the line via Berryessa instead. They further claim that even now if the company would extend the line to a connection at Berryessa, thus giving two routes to Alum Rock Park, homes would be established along such line and it would become a paying proposition. This is, of course, problematical but is something, the possibility of which we believe should be investigated by the Commission before final disposition of the water is made. This Commission cannot be expected to insist that public utility companies continue to operate properties at a loss, but it must proceed with care before permitting the violation by public utility companies of obligations assumed to the public.

Coincident with the filing of this application,

applicant also asked permission to abandon its line from San Jose to the cemeteries, which permission the Commission has granted, such permission being largely based upon the fact that applicant, recognizing the rights of the public, agreed to provide other means for reaching the cemetery.

The present application, if granted, will leave the people living along the line to be abandoned without transportation. There is no jitney service along the line and applicant has received the entire patronage of the people living in that section.

The Commission is in entire sympathy with the facts recently expressed by President Wilson, by Hon. John Skelton Williams, United States Treasurer, by Hon. W. G. McAdoo, Director General of Railroads, and other thinking men, to the effect that no greater service can be done for the public by regulatory bodies than by keeping our public utilities in sound financial condition. In accordance with that principle the Commission has recently granted this applicant, and lines under the same management and ownership, permission to increase their rates but it does not appeal to us that public utilities should ask permission to increase their rates and at the same time ask to abandon service, thereby disregarding their obligations to the public if there is any hope of such service being made self-sustaining or profitable.

I am inclined, therefore, to withhold permission to applicant to abandon this service for a period of ninety days, during which time further operation of the road can be carefully scrutinized and to give notice to the patrons of the road that if at the end of ninety days there has been no improvement and

the extension to Berryessa ^{is} found to be unwise at this time, applicant may renew its application to abandon the line in question.

I suggest, therefore, that the application be dismissed without prejudice, subject to renewal at the expiration of ninety days from the effective date of the following order.

O R D E R

San Jose Railroads, a corporation, having made application for authority to suspend service and abandon and remove its tracks between Linda Vista and Toyon, all in Santa Clara County, public hearings having been held, the matter having been duly submitted and the Commission being fully advised.

IT IS HEREBY ORDERED that for the reasons as set forth in the foregoing opinion this application be and the same hereby is dismissed without prejudice, subject, however, to the right of applicant to file similar application at the expiration of ninety days from the effective date of 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 10th day of August, 1918.

Edwin C. Edgerton
H. H. Kovaland
Lee G. ...
Frank R. ...

Commissioners.