

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
the SOUTHERN PACIFIC COMPANY to in-)
crease passenger fare between San)
Francisco and Broadway Wharf, Oakland)

Application No. 252

C. W. Durbrow, for Southern Pacific Company

E. D. White of the firm of Snook & Church, for
Oakland Chamber of Commerce

A. A. Denison, for Oakland Chamber of Commerce

E. A. Freeman, for Oakland Protective League

Edwin Stearns and H. F. Seiler, for Downtown
Improvement Club.

OPINION ON APPLICATION FOR REHEARING

GORDON, Commissioner

This is an application on the part of the Southern Pacific Company for a rehearing in Application No. 252 decided by the Commission January 10, 1913.

The Commission in its decision denied the application for permission to increase passenger fare between San Francisco and Oakland Broadway Wharf from five to ten cents via what is known as the Creek Route and the present application is for a rehearing of the matters previously decided by the Commission.

In its original application the Southern Pacific Company sought to justify the proposed increase on the grounds that it had spent large sums in electrifying the Oakland Pier Route for expeditious passenger service and that in order to make that route more safe automobiles had been forced on to the Creek Route via which line an increased number of boats were placed in service to accommodate automobiles. It was contended that the

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increase of the Creek Route service from hourly to half hourly service for the accommodation of automobiles had the effect of attracting a large amount of passenger business from the Oakland Pier Route, via which line the fare is 10 cents, to the Creek Route where the fare is 5 cents.

The application for rehearing is based primarily on the fact that the carriage of automobiles in large numbers within the enclosed portion of the Creek Route boats, which automobiles carry tanks filled with gasoline, renders it extremely hazardous to transport passengers on the same boats, and that if the applicant were permitted to increase the fare from five to ten cents the Creek Route passengers would naturally patronize the Oakland Pier Route because of the superior service for the same money via that route, thereby reducing the number of passengers who might be on a boat in case of an accident due to explosions of gasoline carried by automobiles.

The jurisdiction of this Commission to provide against accidents on the property or public utilities does not extend to vessels plying on the navigable waters where the Federal Government has taken action in the general field. The Federal Government has enacted legislation covering the general question of safety of navigation, giving to the United States Supervising Inspectors of Hulls and Boilers the power to make all needful rules and regulations in the matter.

It is clear that the Federal Congress has power under the commerce clause to exercise authority over the navigation on all public waters of the United States; inasmuch as Congress has exercised its power by proper legislation and has prescribed rules for the safe navigation of vessels it is clearly not within the jurisdiction of this Commission to prescribe regulations for safety of water craft.

Section 4472 of the laws governing the steamboat inspection service contains the following:

"Nothing in the foregoing or following sections of this Act shall prohibit the transportation by steam vessels of gasoline or any of the products of petroleum when carried by motor vehicles (commonly known as automobiles) using the same as a source of motive power".

And further, this section says:

"Provided further, that any owner, master, agent, or other person having charge of passenger steam vessels shall have the right to refuse to transport automobile vehicles the tanks of which contain gasoline, naphtha or other dangerous burning fluids".

It will be noted from the foregoing provisions of the Federal Statutes that the Federal Government in the exercise of its authority over the navigation of vessels has expressly provided that automobiles may be carried without any limitation as to the number on each vessel or in what portion of the vessel they must be loaded or stored. At the same time the Federal Government has left the door open for vessels to decline to carry automobiles the tanks of which are filled with gasoline, if they so desire.

Why then should the applicant apply to this Commission for permission to raise a passenger fare in order to force passengers to travel via a steamer line which does not carry automobiles when the Federal Government in the exercise of its authority over the safe navigation of vessels has specifically said that a vessel carrying passengers may accept automobiles with tanks filled with gasoline or refuse to accept them, at their pleasure?

The applicant assumes that the raising of the fare from five to ten cents via the Creek Route will force passengers to the Oakland Pier Route where no automobiles are carried, and while it is solicitous of the welfare of the foot passengers who patronize the Creek Route it does not seem at all apprehensive of the safety of the passengers accompanying automobiles or

teamsters accompanying teams.

In the original hearing of this application the applicant very strongly urged that the service via both the Creek Route and the Oakland Pier Route was first class and that because of the increased number of boats now run on the Creek Route to accommodate automobiles a large number of passengers who formerly patronized the Oakland Pier Route and paid 10 cents for the trip now patronized the improved Creek Route service where the fare is but 5 cents.

It is needless to discuss any further the matters brought out at the original hearing which were fully dealt with in our original opinion and order. The present application, as before stated, is based on a desire of the applicant to eliminate the risk of carrying passengers on the same vessel which is crowded with automobiles. In my opinion, if the applicant feels that it is operating its vessels in a manner prejudicial to public safety its duty is to call the matter to the attention of the Federal inspectors and not appeal to this Commission to raise its passenger fare. I have no doubt but that the Federal Government, through its inspectors, which has exclusive jurisdiction over the safety of the operation of the transbay ferry boats will promptly take steps to minimize any danger.

Under all the circumstances of the case I am of the opinion that the applicant should be referred to the Federal inspectors and that the application for a rehearing should be denied.

I recommend the following order:

O R D E R

Southern Pacific Company having filed a petition for a rehearing in Application No. 252 previously decided by this Commission and a hearing having been duly held upon said application for rehearing and it appearing to the Commission from the evidence submitted that said application for rehearing should not be granted,

IT IS HEREBY ORDERED that application of the Southern Pacific Company for rehearing in Application No. 252 be and the same is hereby denied.

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 this 24th day of April, 1913.

H. D. Loveland

W. H. Gordon

Max Thelen

Edwin O. Edgerton

Commissioners.