

ORIGINAL

Decision No. 6052.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
LOS ANGELES & SAN DIEGO BEACH RAIL- )  
WAY COMPANY to discontinue its rail- )  
way service, dismantle its road and )  
dispose of its property. )  
..... )

Application No. 4084.

E. Swift Torrance for applicant;

Wright & McKee for the Chamber of Commerce  
of La Jolla;

John H. McCorkle for the Chamber of Commerce  
of San Diego;

Mr. R. Thorpe for the city of San Diego;

H. C. Gardiner for Citizens Club of Pacific  
Beach and San Diego Beach Company;

James E. Wadham for Merchants National Bank of  
San Diego;

Sweet, Stearns and Forward for the First National  
Bank of San Diego;

BY THE COMMISSION

O P I N I O N

Los Angeles and San Diego Beach Railway Company have petitioned the Railroad Commission for an order authorizing the permanent discontinuance and abandonment of its railway, to take up and dispose of its property, both real and personal, in whole or in parcels and to apply the proceeds of any and all such sales towards the satisfaction of its obligations.

Public hearings were held by Examiner Handford at San Diego on October 17th and November 25 and 26, 1918, the matter was duly submitted on briefs to be filed by the counsel for

applicants and protestants, and is now ready for decision.

The applicant, Los Angeles and San Diego Beach Railway Company, alleged that since 1906 its railway line has been owned and operated, and that for no year during such period have the earnings been sufficient to pay operating expenses, rents, taxes, hire of equipment, interest and depreciation; that for more than five years past the receipts from operation have been insufficient to pay operating expenses, rents, hire of equipment and interest; that during such five year period the smallest deficit sustained in any one year was \$9,665.32, and that an approximate deficit of \$69,112.76 has been sustained for the entire five year period.

Applicant further alleges that at the present time it has an opportunity to dispose of its rails, equipment and other personal property at satisfactory prices and, that if applicant is permitted to discontinue this service, to dismantle its road, to sell the salvage obtained therefrom, it will be able to pay in full all of its obligations. That account of the lack of patronage it believes, and therefore alleges that public convenience and necessity do no longer require or justify continuance of operation.

A complete description of the applicants' railway and the territory served, together with historical data as to the organization, construction and operation of the line, was contained in this Commission's Decision No. 1382 in Case No. 131, entitled "In the Matter of ascertaining the value of the property of the Los Angeles and San Diego Beach Railway Company", as decided March 30, 1914, to which reference is hereby made

(decisions C. R. C. Vol. 4, P. 525).

The financial condition of the applicant is as follows:

The amount of stock authorized is 20,000 shares, of common stock, of the par value of one hundred dollars per share; no preferred stock having been authorized, issued or outstanding.

The amount of stock issued and outstanding is 5,460 fully paid up, and 1,650 shares of common stock, upon which ten per cent has been paid.

The bond issue, as authorized by this Commission by Decision No. 1692 on Application No. 1240 and approved as to form by this Commission's Decision No. 2135, covers an issue of bonds in amount \$375,000.00 maturing January 2nd, 1950; fifty of said bonds being of the par value of \$500., and three hundred and fifty of the par value of \$1,000.00, all bearing interest at the rate of five and one-half per cent per annum; secured by a deed of trust executed by the applicant herein to the Southern Trust and Savings Bank of San Diego, under date of December 31st, 1914, bonds are outstanding in accordance with the following table:

| <u>To Whom Issued</u>                 | <u>No. &amp; Amount</u>   | <u>Date of Issue</u> | <u>Int.</u> | <u>Object of Issuance</u>  |
|---------------------------------------|---------------------------|----------------------|-------------|--|
| Southern Trust & Savings Bank         | 1 1,000.00                | 1/2/15               | 55.00       | Purchase   |
| Southern Trust & Savings Bank         | 4 1,000.00                | 3/20/15              | 220.00      | Purchase   |
| Citizens National Bank of Los Angeles | 24 1,000.00               | 4/28/16              | 1320.00     | Issued as collateral security and later sold to Isabella Babcock |
| Merchants National Bank               | 30 1,000.00               | 1/29/16              |             | Collateral security  |
| Southern Trust & Savings Bank         | 7 1,000.00                | 2/16/16              |             | Collateral security  |
| American National Bank                | 7 1,000.00                | 2/18/16              |             | Collateral security  |
| Southern Trust & Savings Bank         | 15 1,000.00)<br>1 500.00) | 11/28/16             |             | Collateral security  |
| Colorado Fuel & Iron Company          | <u>9</u> 1,000.00         | 2/17/17              |             | Collateral security.   |

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The following table shows the outstanding notes of applicant, together with date of issue, amount, date of maturity, rate of interest, in whose favor made, the security given, and the amount of interest paid thereon during the last fiscal year:

| <u>Issued</u> | <u>Whose Favor</u>   | <u>Amount</u>   | <u>Int. Rate</u> | <u>Matur-<br/>ity</u> | <u>Secur-<br/>ity<br/>(bonds)</u> | <u>Int.<br/>Paid.</u> |
|---------------|----------------------|-----------------|------------------|-----------------------|-----------------------------------|-----------------------|
| 3/15/16       | Amer. Natl. Bk.      | \$ 5,000.00     | 6%               | 9/15/16               | \$7,000                           | None.                 |
| 2/16/16       | So. Tr. & Sav. Bk.   | 5,000.00        | 7%               | 8/15/16               | 7,000                             | 262.50                |
| 2/ 2/16       | So. Tr. & Sav. Bk.   | 1,759.75        | 7%               | 8/ 2/16               |                                   | \$61.60               |
| 7/20/16       | Amer. Natl. Bk.      | 1,500.00        | 7%               | 10/20/16              |                                   | 72.50                 |
| 7/25/16       | Amer. Natl. Bk.      | 2,500.00        | 7%               | 11/25/16              |                                   | None                  |
| 9/25/16       | S. Tr. & Sav. Bk.    | 11,000.00       | 7%               | 3/25/17               | 15,500                            | 385.00                |
| 10/15/16      | Amer. Natl. Bk.      | 15,000.00       | 6%               | Demand                |                                   | 707.50                |
| 5/ 1/17       | S. D. Elec. Ry. Co.  | 4,000.00        | 6%               | 5/ 1/18               |                                   | 240.00                |
| 11/ 5/14      | Mer. Natl. Bk.       | 21,000.00       | 7%               | 2/ 3/15               | 30,000                            | None.                 |
| 2/ 1/17       | Colo. Fuel & Iron Co | 7,393.03        | 6%               | 2/ 1/18               | 9,000                             | None                  |
| 2/ 2/17       | Amer. Natl. Bk.      | 5,762.75        | 6%               | 5/ 2/17               |                                   | 178.65                |
| 11/ 8/17      | Amer. Natl. Bk.      | 1,483.65        | 7%               | 1 day                 |                                   | None                  |
| 11/ 9/17      | Amer. Natl. Bk.      | <u>1,862.40</u> | 7%               | 1 day                 |                                   | None.                 |
| Total --      |                      | \$83,261.58     |                  |                       | \$68,500                          | \$1907.75             |

The only other obligations of applicant consist of its indebtedness due to Mr. E. S. Babcock in an amount of \$109,209.34, and current outstanding accounts, all of which are unsecured, and upon which no interest has been paid.

No dividends have ever been paid upon the stock herein.

Mr. W. R. Lyon, Vice-President of the Los Angeles and San Diego Beach Railway Company, testified that the financial condition of the Company was such that it was impossible to continue operation; that sufficient patronage resulting in a revenue <sup>and</sup> adequate to meet the operating expenses/ fixed charges was not available; that the company was unable, and had been for some time, to negotiate any loans at any of the local banks at San Diego, <sup>from</sup> or/any other source, and that Mr. Babcock, President of the

Company, had heretofore advanced the company material sums, but was not financially able to make further loans. The credit of the company is exhausted and, as creditors were pressing for payment of obligations due, the company desired to suspend entirely all operation, to dismantle its road, and to dispose of its rails, equipment and other property to the best possible advantage, to apply the proceeds from the salvage and sale of the material, equipment and personal property to meet the obligations it had incurred.

It was testified that efforts had been made to dispose of the property as a going concern and in operative condition, that such negotiations had been unsuccessful and that there was no possible means by which additional finances could be secured to continue the operation of the line, nor any prospect that the volume of patronage to be accorded by the public would result in revenue sufficient for the continued operation of the line.

A record of the receipts and expenditures for the period from July 1st, 1910 to September 30th, 1918 is as follows:

COMPARATIVE STATEMENT OF OPERATING RESULTS - LOS ANGELES & SAN DIEGO BEACH RAILWAY CO.

| Year Ending            | Jan. 1, 1918<br>to<br>Sept. 30, 1918 |                 |                 |                 |                 |                 |                 |                 |                 |
|------------------------|--------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                        | June 30, 1911                        | June 30, 1912   | June 30, 1913   | June 30, 1914   | June 30, 1915   | June 30, 1916   | Dec. 31, 1916   | Dec. 31, 1917   | Sept. 30, 1918  |
| ing Revenues           | \$ 63304.65                          | \$ 76984.51     | \$ 87892.97     | \$ 72959.19     | \$ 71658.68     | \$ 67761.31     | \$ 58098.81     | \$ 44198.44     | \$ 32646.64     |
| Expenses               | <u>49668.92</u>                      | <u>56420.71</u> | <u>68281.00</u> | <u>63994.60</u> | <u>60301.36</u> | <u>61897.79</u> | <u>59173.09</u> | <u>48586.15</u> | <u>32737.05</u> |
| erating Revenue        | 13635.73                             | 20563.80        | 19611.97        | 8964.59         | 11357.32        | 6363.52         | 1074.28*        | 4387.71*        | 90.41*          |
|                        | <u>1197.19</u>                       | <u>3261.54</u>  | <u>3174.69</u>  | <u>4081.21</u>  | <u>3852.66</u>  | <u>3333.15</u>  | <u>2081.95</u>  | <u>3908.04</u>  | <u>-----</u>    |
| ing Income             | 12438.54                             | 17302.26        | 16437.28        | 4883.38         | 7504.66         | 3030.37         | 3156.23*        | 8355.75*        | 90.41*          |
| ions from Gross Income | 2142.94                              | 2250.29         | 2308.84         | 2521.09         | 1009.59         | 731.10          | 588.45          | 2499.55         | 6499.62 +       |
| at                     | <u>10197.06</u>                      | <u>9864.15</u>  | <u>10233.69</u> | <u>11727.51</u> | <u>5041.71</u>  | <u>5200.57</u>  | <u>5926.95</u>  | <u>4490.74</u>  | <u>11314.12</u> |
|                        | <u>12340.00</u>                      | <u>12114.44</u> | <u>12542.53</u> | <u>14248.60</u> | <u>6051.30</u>  | <u>5931.67</u>  | <u>6514.50</u>  | <u>6990.29</u>  | <u>17813.74</u> |
| come                   | 98.54                                | 5187.82         | 3894.75         | 9665.22*        | 1453.36         | 2901.30*        | 9670.73*        | 15286.04*       | 17904.15*       |

ates loss.

ades taxes.

This application was contested by the Chamber of Commerce of La Jolla, the Chamber of Commerce of San Diego, the City of San Diego, the Citizens Club of Pacific Beach and the San Diego Beach Company.

The Chamber of Commerce of La Jolla contests the application on the basis that La Jolla, a suburb of San Diego, with a population of approximately 4,500 people, objects to the discontinuance of railroad service between the City of San Diego proper and the suburb known as La Jolla, which is a residential suburb having many attractive residences and at which <sup>point</sup> is also located the Bishop's school, <sup>and</sup> the Scripp's Institute for biological research.

The Chamber of Commerce of San Diego, by its attorney, object to the suspension of service and abandonment of line on the basis that the main portion of the City of San Diego would be deprived of railroad connection with La Jolla.

The City of San Diego, through its assistant city attorney, protests against the abandonment of tracks unless arrangements were made whereby tracks now laid in paved or improved streets are removed in a manner satisfactory to the city officials of the City of San Diego and the portion of streets upon which tracks were laid restored to a condition conforming to the balance of the streets upon which tracks have been laid and are to be removed.

The Citizens Club of Pacific Beach and the San Diego Beach Company object to the suspension of service and abandonment of the line for the reason that Pacific Beach and stations intermediate to San Diego will be deprived of all railroad connection.

At the hearing on this application on October 17, 1918,



a postponement was requested in order that arrangements might be made for the working out of a plan whereby the northerly portion of the line from La Jolla to Lemont Street, Pacific Beach, could be left intact and sold to the company to be formed principally among the residents of La Jolla; it being the intention to make a connection with the Bay Shore Railroad Company and the Point Loma Railroad thereby furnishing access to San Diego over such route.

This arrangement would require the electrification of the portion of the Los Angeles and San Diego Beach Railway, which was proposed to be retained and also of the connecting link between Lemont Street, Pacific Beach, and the point of connection with the Bay Shore Railroad. Arrangements were made at such hearing whereby the deficit arising from operation for a period of thirty days would be met by certain representatives on behalf of the protestants. At the final hearings on November 25th and 26th no constructive plan was presented and the matter was still under negotiation between the La Jolla protestants, representatives of the Spreckles Companies, and the applicants in this proceeding. The necessary amount of funds not having been subscribed nor had any definite and constructive plan been agreed upon covering the retention of the northerly end of applicants' property and the proposed new construction and revised operation. The Commission is of the opinion that the proposed arrangements for the retention of railroad service to La Jolla should not delay the matter of a decision in this proceeding for the reason that if the line is to be abandoned the economical handling of the salvage to be obtained would require that the line be taken up commencing at its most northerly

point in order that extra and unnecessary expense might not be imposed upon the applicant.

After careful consideration of all the evidence in this proceeding and of the briefs filed by the attorneys for protestants, we are of the opinion and find as a fact that the revenue derived from the operation of the Los Angeles and San Diego Beach Railway is not sufficient to meet the operating expenses eliminating entirely the items of interest, taxes or any allowance for interest on any return on investment.

Every economy possible has been exercised by the company and the Commission in several instances has suggested methods and authorized changes in an endeavor to place the property on an operative basis that would at least result in the operating expenses being available from the revenue received but the patronage which should have been accorded the line has not been forthcoming and at the present time the Company finds itself unable to secure further funds from any source with which to continue its service.

We are of the opinion that the application for permission to discontinue railway service on the line between San Diego and La Jolla should be granted and that applicant should be permitted to discontinue permanently its service as a common carrier. Having given this Company the right to discontinue operation, the matters of dismantling of the road, restoration of the condition of streets in which tracks are laid and are to be removed, and the disposition of the applicants' property thereafter are not such that fall within the jurisdiction of the Railroad Commission and the portions of the application requesting authority for dismantling and disposition of property will therefore be dismissed.

O R D E R

Los Angeles and San Diego Beach Railway Company having petitioned the Railroad Commission for an order authorizing the discontinuance of its railway service, the dismantling of its road and the disposition of its property, public hearings having been held, the matter having been duly submitted and the Commission being fully advised and basing its order on the finding of fact as set forth in the preceding order,

IT IS HEREBY ORDERED that the application requesting permission to discontinue service be granted and that permanent discontinuance of service may be made after two days notice will have been given the traveling public by posting notices at all stations on the line of applicants' railway.

IT IS HEREBY FURTHER ORDERED, for the reasons as appearing in the foregoing opinion, that the portions of the application requesting dismantling of road and disposition of the property of the applicant be and the same hereby are dismissed.

The Commission reserves the right to make such other and further orders in this proceeding as to it may seem just and proper or as the public necessity may require.

Dated at San Francisco, California, this 10th day of January, 1919.

Edwin O. Edgeston

H. J. Loveland

Frank R. Horton

H. B. Bunting

Iwing Martin

Commissioners.