

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

JOHN NIVEN,

Complainant,

vs.

SAN DIEGO ELECTRIC RAILWAY COMPANY, a corporation, and POINT LOMA RAILROAD COMPANY, a corporation,

Defendants.

Case No. 402.

E. L. Thomas and John Niven for complainant.
R. G. Dilworth for defendants.
W. R. Cushman for Ocean Beach Improvement Club.

THELEN, Commissioner.

O P I N I O N.

The complaint in this case was filed on May 29, 1913, and states two grounds of complaint. The first ground is that the rates of fare charged by the defendant companies over their through route between San Diego on one end of the line and Point Loma and Ocean Beach on the other are excessive and unreasonable. The other ground is that the service is not adequate, particularly in that cars are run only every forty minutes, whereas the traffic warrants a service of not to exceed twenty minutes.

The answer was filed on June 26, 1913. With reference to the question of rates, it alleges that the defendant railway companies both of them operate exclusively within the limits of the city of San Diego and that the right to regulate fares thereon rests exclusively with the city of San Diego. With reference to the service, the defendant alleges that a twenty minute headway to Ocean Beach would be impracticable without extensive alterations on the track of the Point Loma Railroad Company and the purchase of a large amount of new equipment; that the defendant San Diego Electric Railway Company has no such control over the affairs of the Point Loma Railroad Company as to require it to incur this large additional expense; and

that the Point Loma Railroad Company is now making certain alterations and additions in the matter of side tracks to its system and is experimenting with a twenty minute headway and expects to be able on or about the first day of July, 1913, to establish a twenty minute headway on Sundays and holidays.

The hearing in this matter was held in the city of San Diego on July 5, 1913. The evidence shows that the San Diego Electric Railway Company is the electric street railway of the city of San Diego; that at what is known as Winder Street in the city of San Diego it connects with the Point Loma Railroad Company, which Company owns a line of railroad extending from said Winder Street to Point Loma and Ocean Beach, within the city of San Diego; that the stock in both corporations is owned by J. D. and A. B. Spreckels; and that they are operating under a common control and management, although separate accounts are kept with reference to operations over the lines of each of the defendant railway companies.

The defendants' contention with reference to the rate of fare is correct. The provisions of Section 23 of Article XII of the Constitution of this State, as amended on October 10, 1911, giving to the Legislature authority to confer upon the Railroad Commission the power to supervise and regulate public utilities, specifically provides that the incorporated cities and towns of the State shall retain such powers of control as might be vested in them over public utilities until the electors of such incorporated cities or towns should, at an election held for that purpose, vote to confer their powers upon the Railroad Commission. Section 19 of Article XI of the Constitution of this State, as also amended on October 10, 1911, specifically gives to municipal corporations in this State the right to regulate the charges of the classes of public utilities therein specified, including those who supply their inhabitants with "transportation." While this section probably has no application to steam railroads, there is no doubt that it applies to street railroads. The city of San Diego accordingly had the power to regulate the rates

for transportation to be charged by street railroads within its limits, and this power the city still retains. If the complainants desire relief with reference to this matter they must address themselves to the City Council of the city of San Diego, which body alone has authority over the matter.

With reference to service, the issues were narrowed to the single question of the headway which should be maintained between San Diego on the one end and Point Loma and Ocean Beach on the other. It appears that prior to June 22 a forty minute headway was maintained, but that on said day, a twenty minute schedule for Sundays and holidays was put into effect. During week days, however, the forty minute schedule was maintained until July 2, three days prior to the hearing, on which day a new schedule providing for a twenty minute headway between 6:20 P. M. and midnight was put into effect.

It appears that of late, the traffic to and from Ocean Beach and Point Loma has been increasing considerably, particularly since the commencement of the construction in Ocean Beach of an amusement park, which has employed many men in its construction and which will doubtlessly henceforth attract a large traffic. The defendant companies stated that they would give the public such service as might be necessary and that they would operate all the additional cars which such service might demand.

At the hearing defendants stated that on hearing the testimony they had become convinced that it would be necessary to establish a twenty minute headway, beginning at an ^{earlier} ~~XXXX~~ period in the evening, and also during a portion of the morning hours. This admission narrowed the controversy to the question whether a twenty minute headway should also be established during the remaining hours of the day. While there was some testimony on behalf of the defendants with reference to the need of constructing additional side tracks and to an expenditure of some \$357,000, which would have to be incurred in case a three minute service were given, which service the defendants believe may ultimately be necessary, it appeared also that no

additional side tracks would have to be installed to enable the defendants to give a twenty minute headway at all times, and that the only additional expense would be the expense of operation. At the request of the Commission, the defendant filed tabulations for the months of April, May and June, showing a record of the passengers carried between the points affected during said months. These tabulations show such a number of passengers traveling during the middle of the day as to justify a twenty minute headway during that portion of the day, as well as during the morning and evening hours. The defendants' general manager frankly stated that because of the amusement park at Ocean Beach and of the growth of the territory, it might soon be necessary to establish a twenty minute schedule all day, and I am convinced from the record of passengers which have moved during the last three months that the time for the establishment of this service has arrived. The defendant companies fully realize that in time a more frequent service will have to be established, and will doubtlessly take such steps as may be necessary to establish such more frequent service when the need therefor becomes sufficiently apparent.

I recommend the following form of order:

O R D E R.

The complaint in the above entitled proceeding having been duly heard, at a public hearing, and it appearing to the Commission that it has at present no authority over the question of the rates of fare charged by the defendant companies for operations entirely within the limits of the city of San Diego, and it appearing further, that the service maintained by the defendant companies in the operation of their cars between the city of San Diego and Point Loma and Ocean Beach is inadequate and insufficient in so far as it does not provide for a headway of at least twenty (20) minutes on their respective lines during each week day, as well as on Sundays and holidays,

IT IS HEREBY ORDERED that the defendants be and they are hereby directed to establish and maintain a daily headway of at least twenty (20) minutes on their respective lines of railway between the city of San Diego and the towns of Point Loma and Ocean Beach, and to file with this Commission within ten (10) days from the service of this order, time-tables showing the establishment of such headway.

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 July, 1913.

John McCallister

W. Gordon

Max Thelen

Commissioners.