

Decision No. 8837

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Monterey & Pacific Grove Rail-
way Company, a Corporation, for
authorization and permission to
increase railroad passenger fare.

Application No. 6266.

Fred A. Treat, for Applicant,
H. C. Jorgensen, for City of Pacific Grove,
Sherman K. Wolfe, for City of Monterey,
Carmel Martin, for Monterey Chamber of Commerce,
James F. Pollard, for Coast Valleys Gas & Electric Co.

MARTIN, Commissioner.

O P I N I O N

The Monterey & Pacific Grove Railway Company asks in this application that the Commission make an order authorizing the increase of its street railway fare from the present five cents per ride to a charge of not more than ten cents.

This Company has been before this Commission in Application 1687 (Decision No. 2424) for a certificate of public convenience and necessity; Case 315 (Decision No. 3287) for valuation brought upon the Commission's own initiative; and indirectly in Application 1418 (Decision No. 2269) of the Coast Valleys Gas & Electric Company wherein there was a question as to the applicant's liability as guarantor of principal and interest of bonds of the Monterey and Pacific Grove Railway Company.

The applicant shows in its petition that it is an electric railway operating between and within the cities of

Monterey and Pacific Grove; that the receipts of the corporation barely meet the operating expenses; that there are no moneys with which to repair roadbed, track and rolling stock and to make improvements or replacement of equipment, and that the roadbed, ties, tracks, rolling stock, and trolley require immediate improvement.

The applicant stipulates that if such increase be granted, it will use all earnings over and above all operating expenses and overhead for the betterment of its equipment and service and to such manner and extent as this Commission may direct; that the stockholders do not propose to receive any dividends until such time as the service to the public will be such as to satisfy this Commission.

Communications from various organizations protesting against the service of the railway were received and investigated.

The Commission's engineering department made an inspection of the properties of the Monterey and Pacific Grove Railway Company, an investigation of the service and operations of the Company, brought the valuation up to date and made estimates of the deferred maintenance and of continued operation on three bases.

A public hearing was held in Monterey, January 21, 1921, and the matter is now ready for decision.

Attention is called to Application 5776 of the Bay Rapid Transit Company for certificate of public convenience and necessity to operate an auto passenger stage line service between Monterey and Pacific Grove, the decision for which is held pending the outcome of the railway application.

The financial, physical, and operating conditions of the applicant appear to be very unsatisfactory. The engineering department's report on the present condition of appli-

cant (Commission's Exhibit No. 1) shows that there is outstanding common stock of a par value of \$300,000.00 and first mortgage bonds of a par value of \$270,000.00. The total investment in road and equipment is shown in the annual report of the Company for the year ending December 31, 1920, as \$612,833.40. As against these figures our engineers find a reproduction cost of \$132,448.00 and a depreciated reproduction cost of \$73,214.00. In the last annual report above referred to it appears that the ownership of the road changed in May, 1920. Prior to that time this Company was controlled through stock ownership by the Coast Valleys Gas and Electric Company. The 1920 annual report of applicant contains the following entry:

"All capital stock of respondent was sold at public auction in New York City in May, 1920. Said stock was bought at said sale by L. T. Fetzer, 27 William Street, New York City, who is the present owner of same."

A further entry appears:

"Respondent states that the President, or other chief officer of respondent has no control, or at least has not asserted control over the accounting of respondent and to the best information and belief of the officer verifying this report there is not now any active President or other chief officer in control and for the reasons herein stated this report is verified by other than such President or such other chief officer in control."

It appears that the sinking fund payments on the bonds were defaulted every year since 1914, and with reference to the entries in the last annual report dealing with the outstanding mortgage bonds the statement appears that the Company "does not admit liability for the bonded indebtedness." Neither does applicant, according to the last annual report, admit liability for loans, notes, and miscellaneous accounts payable to Coast Valleys Gas and Electric Company incurred prior to July 1, 1914.

The Coast Valleys Gas and Electric Company, through its representative James F. Pollard, stated at the hearing

that no corporate connection whatever existed at this time between applicant and the Coast Valleys Gas and Electric Company. Upon our request Mr. Pollard writes that the following is a copy of the entry appearing on Coast Valleys' books in regard to the disposition of the stock and bonds of applicant:

"For \$184.00 certificate of deposit in New York Trust Company, dated March 12, 1920, in favor of Coast Valleys Gas and Electric Company, being proceeds from sale at public auction of corporate stock, bonds, and notes of Pacific Grove and Monterey Railway Company."

It would appear, therefore, that the road was sold to New York interests for \$184.00 and that those interests refuse to admit any liability for the outstanding bonds or other indebtedness of the railway.

According to Commission's Exhibit No. 1, however, applicant does not own the land and part of the buildings for car barn, shops, etc., which facilities appear to be still the property of the Coast Valleys Gas and Electric Company.

These facts are stated in order to show applicant's financial position and the apparent lack of responsible management and control. It also appeared at the hearing that tentative negotiations had been carried on between applicant and the communities served by the road looking toward the acquisition of the road by these municipalities. These negotiations, however, appear to have been of a wholly informal kind and there does not seem to be any prospect of any such solution being realized.

It is apparent that there is no prospect whatever of applicant being placed in any kind of satisfactory position without a thoroughgoing financial re-organization. This conclusion was reached by this Commission in 1916 in the decision heretofore referred to, but nothing has been done in the meantime by the Company to bring about such re-organization.

At the hearing the legal representative of applicant was asked if through his or some other authority the owners of this property would make available the necessary sum of money (an amount of only a few hundred dollars) to provide for certain most urgent track work, and the answer was that there was no such authority.

To grant applicant an increase in fares under such conditions would seem unjustifiable from every standpoint. No guarantee whatever exists that an increase in fares would result in temporary better service or in permanent rehabilitation of the property. It is true that the communities served by this road are anxious to retain street railway service, even at an increased fare. They prefer such service, provided it can be made reasonably good and reliable, to motor bus service. The representatives of the communities, however, are equally convinced that nothing is to be gained by raising the rate of fare and having the present unsatisfactory service continue for a short time longer with the eventual inevitable result of abandonment and discontinuance of street railway operations. They believe if that is to be the outcome, arrangements for substitute motor service had better be made at this time.

It has been the Commission's permanent policy that the owner of a utility is responsible for reasonably good service and that from him must come the necessary capital for extension or rehabilitation of plant. After the owner has assumed that obligation, the Commission has granted, in so far as it lay within its power, such reasonable rates as would pay the cost of operation, the maintenance of the plant and a fair return. I see no reason why, in this case, there should be a departure from that policy.

In Commission's Exhibit No. 1 it is estimated that approximately \$8,000.00 is required in order to make up the most necessary of deferred maintenance and to provide

for the most urgent repairs of the property to permit of a fairly reasonable service. This estimate includes the construction of a new passing track to be located in the middle of the line between Monterey and Pacific Grove, which will enable the maintaining of a fairly uniform schedule on the main line.

In my opinion, the Commission should order applicant to make available in cash this amount of money as a minimum, the cash to be deposited locally, and subject to draft by the local manager to be expended for the most urgent repairs and rehabilitation of the road under the direction of this Commission. I am satisfied that the local manager of the road is competent and anxious to give the best possible service and that the interests of the owners and of the public will not suffer if the necessary authority is placed in his hands.

After this minimum amount to take care of deferred maintenance has been made available, and expended in whole or in part, and after the service is reasonably satisfactory, it is my recommendation that the Commission should issue a supplemental order and grant applicant a reasonable increase in the rates of fare sufficient at least to enable the continuance of operation and the setting aside of a depreciation fund. In such a supplemental order there should be incorporated the Company's stipulation contained in the present application, that all income over and above operating expenses shall be held and used under the direction of the Commission for the betterment of applicant's equipment and service to the extent and until such time as the Commission may direct.

I suggest the following form of order:

O R D E R

Monterey and Pacific Grove Railway Company having filed with the Commission its application for an increase of its street railway fares, an investigation having been made

and a public hearing having been held, and the Commission finding as a fact that the condition of this property and that the service rendered the public is unsatisfactory and that an increase in the rate of fare is not justified until operating and service conditions have reasonably been improved, as referred to in the foregoing opinion, and that only after such improvement an order authorizing a reasonable increase in the rate of fare, on conditions to be fixed by the Commission, should be made,

IT IS HEREBY ORDERED, That applicant, within thirty days from the date of this order, make available in cash and deposit locally the minimum amount of \$8,000.00 to be expended by the present local management in deferred maintenance of the railway and for the betterment of service under direction of this Commission.

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 9th
day of April, 1921.

Frank R. DeLoe
H. B. Lawrence
H. C. Underg
Irving Masten

Commissioners.