

Decision No. 9428

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of Southern Pacific Company to abandon all passenger service now operated by it across the San Antonio Estuary in Oakland, Alameda County, California, at or in the vicinity of Webster Street.

Application No. 6560.

E. J. Foulds, for Southern Pacific Company,
 J. Allison Bruner, for City of San Leandro,
 George E. Sheldon, for Uptown Association
 of Oakland,
 T. P. Wittschen and Ralph Hoyt, for County
 of Alameda,
 E. W. Rollingsworth and Bishop & Bahler,
 for Traffic Bureau, Oakland Chamber of
 Commerce,
 Charles H. Seccombe, for East Side Board of
 Trade,
 J. P. Thompson, for Elmhurst Community Club,
 Leon Gray, for City of Oakland,
 Wilbur Walker, for Merchants Exchange of
 Oakland,
 W. J. Locke, for City of Alameda.

MARTIN, COMMISSIONER:

O P I N I O N

The interurban electric service the Southern Pacific Company (hereinafter referred to as the Company) seeks to abandon in this application consists of two separate services or lines which use its Harrison Street drawbridge across San Antonio Estuary, between the cities of Alameda and Oakland, as follows:

(a) Between 14th and Franklin Streets, Oakland and Alameda Pier (this train service being part of the Oakland and San Francisco interurban electric railway and boat service via Alameda Pier) and

(b) the crosstown line between Alameda and Oakland with the Oakland terminal at the Company's 16th Street

steam line passenger depot (of this line only the portion between the Company's station at 14th and Franklin Streets, in Oakland, and Alameda is proposed to be abandoned, while apparently the service between the 14th and Franklin Street station and the 16th Street main line station in Oakland is to be continued).

Applicant claims that this service is operated at a great loss and that it does not earn sufficient revenue to pay expenses of operation and taxes nor any return upon the valuation or investment in these lines. Applicant states that said lines incur a deficit in railroad operating income of about \$6,000.00 per month and that there is no prospect, either present or reasonably to be contemplated, of said lines being able to earn operating expenses. It is stated in the application that none of said lines are feeders for or furnish any facilities whatsoever in connection with the general steam railroads of the Company and that the traffic handled is exclusively local and transbay.

In support of the application it is further stated that the entire transbay and local electric service operated by the Company in Oakland, Alameda, and Berkeley failed to earn the expenses of operation during the calendar year 1920 by the sum of \$568,416.85, after payment of taxes to the State of California, and that there is no prospect, so far as known, of materially reducing such operating deficit. The services rendered to the public by means of said lines of railroad, it is claimed, are in effect a duplication of services rendered either by this Company or by the street car system operated in Oakland, Alameda, and Berkeley by the San Francisco-Oakland Terminal Railways and it is stated that the public can be adequately accommodated upon such other existing railroad lines.

After postponing the first hearing set in this matter upon request of the Company, a hearing was held in Oakland on June 20, 1921, when exhibits were introduced and testimony

was heard. An additional ten (10) days subsequent to the hearing were given to the parties in the proceeding to file with the Commission such statements or exhibits as they might desire and this time has now elapsed. At this hearing a further postponement of the hearing was urgently requested by the Company and a letter written by Mr. Wm. Sproule, the President of the Company, was read into the record, in which he says:

"On June 20th, the Commission has set for hearing: Case No. 1536, City of Oakland vs. Southern Pacific Company asking for the construction of a curve connecting the Southern Pacific lines on 7th and Webster Streets, etc., and

Application No. 6560, of Southern Pacific Company to abandon the service which is now operated over the Harrison Street Drawbridge between Oakland and Alameda.

Both of the foregoing cases have a direct bearing upon the proposed sale or lease of the Southern Pacific Company's station grounds at 14th and Franklin Streets and the development of said property. All of these matters cannot logically be handled except as parts of the same transaction.

This Company has a committee of traffic experts making a fresh study, not only of the matters above mentioned, but of the entire transbay traffic situation generally with a view of reducing the present operating deficit of over \$600,000 annually on the transbay lines by the elimination of unnecessary service, the elimination of duplication of service, and the re-routing of trains and cars wherever advantageous and at the same time satisfying the traffic requirements. This, of course, involves a scientific analysis of the traffic and revenues not only upon the existing lines operated, but which might be secured by the establishment of new or different routes of travel in lieu of, or perhaps in some cases in addition to, those which are now operated.

This Committee has been at work about six weeks and their work shows that it would be impossible to attempt to reach an intelligent determination of these traffic questions until their work has been completed. It is virtually impossible to deal with any of these matters piecemeal without a comprehensive understanding of the situation as a whole.

I believe it will take about ninety days to complete the investigation now under way and in order that the Commission, the City of Oakland, and ourselves may have the benefit of the result of this work, I ask that both of the cases above mentioned be continued for about ninety days."

A further postponement was resisted, however, by protestants, the City of Oakland, the Board of Supervisors

of Alameda County, and by others. They urged a hearing and a disposition of the application because of certain collateral issues of great importance to the transbay communities and which, in their opinion, were largely or in part dependent upon the action of the Commission in this application. The main ones of these collateral issues are the matter of the erection of a new bridge across San Antonio Estuary in lieu of and adjacent to the Harrison Street bridge and the Webster Street bridge of the County of Alameda and the question of proper handling of freight in case applicant's Harrison Street bridge were abandoned.

The Company opposed the consideration of any issues or the introduction of any testimony or exhibits in this proceeding dealing with any collateral issue or any issue outside the one specifically presented in its application and such testimony as was taken on these matters and such exhibits as were introduced are in the record over the protest of the Company.

The showing made by the Company in support of the application consists of testimony and exhibits intended to give traffic revenue and expense figures on the lines sought to be abandoned. The principal figures as shown in these exhibits, and as furnished by the Company, may be summarized as follows:

A - Crosstown line between Alameda and Oakland
(From applicant's Exhibits Nos. 2 and 3)

Number of passengers carried for the year 1920	2,078,788
Revenue accrued for year 1920	\$117,636.58
Passenger operating revenues for September and October, 1920,	20,052.92
Operating expenses for same months, consisting of maintenance of way and structures, maintenance of equipment, traffic, transportation, miscellaneous operations and general,.....	29,591.11
Net revenue from railway operations (loss)	9,538.19
Railway tax accruals (5% of revenues)	1,052.78
Railway operating income (loss)	10,590.97

B - Between 14th and Franklin Streets, Oakland
and San Francisco, via Alameda Pier
(From applicant's Exhibit No. 3)

Number of passengers carried for the year 1920	1,472,983	
Revenue accrued in the year 1920		
allocated to line	\$78,703.88	
apportioned to line	<u>90,093.47</u>	\$168,797.35

C - Between 14th and Franklin Streets, Oakland
and San Francisco via Oakland Pier
(From applicant's Exhibit No. 3)

Number of passengers carried for the year 1920	2,404,853	
Revenue accrued for year 1920		
allocated to line	\$143,763.82	
apportioned to line	<u>153,157.10</u>	\$296,920.92

(The method by which apportionment is made of revenue to line is shown in applicant's Exhibit No. 3)

D - Oakland, Alameda and Berkeley electric
suburban lines--rail operations only.
(From applicant's Exhibit No. 4)

<u>Railway Operating Income</u>	<u>Year ended Dec. 31, 1920</u>	<u>4 months ended April 30, 1921</u>
Total railway operating revenues	\$1,908,895.90	\$663,031.46
Total railway operating expenses	2,477,095.70	808,776.56
Net loss from railway operations	568,199.80	145,745.10
Railway tax accruals	100,217.05	34,809.16
Railway operating loss	668,416.85	180,554.26

E - There was also filed with the Commission by applicant a statement showing operating revenues, expenses and taxes of the 14th and 18th Street electric suburban lines for September and October 1920. This statement shows:

Passenger operating revenues for both months	\$ 48,324.93
Operating expenses, including maintenance of way and structures, maintenance of equipment, transportation, and general,	51,776.04
Net revenue from railway operations	(loss) 3,451.11
Railway tax accruals (5% of revenue)	2,537.05
Railway operating income	(loss) 5,988.16

Applicant takes the position that it has the legal right to abandon this service when it is shown that it has been in the past and is now operated at a financial loss and that there is no reasonable prospect of profitable operation in the immediate future and that there is no alternative for this Commission but to grant the application.

Applicant contends that there can be no doubt of the operating losses on the particular lines sought to be abandoned in this application. It seeks to establish that contention by reference first to the figures summarized in statement "D" above, where the loss of over \$600,000.00 for the year 1920 is shown for the aggregate rail operations of the entire transbay interurban electric system operated by applicant. The Company also contends that not only has it proven the unprofitableness of all its transbay electric passenger service, but that it has proven the unprofitableness of the particular lines or the particular operations sought to be abandoned.

It would appear that two questions arise in connection with this contention:

First, is it a fact that the transbay electric interurban service given by the Company results in ultimate loss to the owners of the Southern Pacific Company, when all factors entering into the problem are fairly considered and given their proper weight and is it reasonable and practicable from the standpoint of public necessity and convenience to abandon this entire service, assuming that an operating loss could be shown?

Second, assuming that the entire transbay system did show an operating loss, is it a fact that the particular lines sought to be abandoned are operating at a loss, and

has applicant the right to abandon at will such portions of the lines and such portions of the services of the entire system as may suit its convenience, or should service be curtailed and lines abandoned, if need be, only after the relative losses of the different lines and services have been ascertained and after the relative importance of the different lines and services, from the standpoint of public convenience and necessity, is known?

No answer can be had to either of those two questions from the evidence submitted by the Company in this proceeding. No right exists, in my opinion, by which the Company can at its own convenience select for reasons of its own and not apparent from the record, as far as the Company is concerned, a specific line or a particular service on a specific line and proceed to abandon such a line or service, unless the entire situation is known and unless it is determined by competent authority that a particular abandonment is required and justified under all the circumstances.

The facts are that applicant operates in connection with its main line passenger and freight operations, using partly the same facilities and equipment and under the same ownership and management, an electric interurban railway and ferry service. This interurban system serves the City of San Francisco and several important transbay communities, including Oakland, Berkeley and Alameda. The population of the territory making use of this service, and in considerable degree dependent upon it, is in the neighborhood of one million. In all of applicant's financial and accounting operations this transbay system forms an integral part of the entire Southern Pacific system and in its annual reports to its stockholders and in the annual reports to the Interstate Commerce Commission, and to this Commission, the operations of this particular branch

of the Southern Pacific system are incorporated and reflected exactly as is every other branch of the entire service given by the Company. The net profits from the Company's operations in the annual reports are determined after these particular operations have been taken into account.

When the questions of valuation and fair return of the country's carriers were before the Interstate Commerce Commission, in the recent adjustment of rates, this interurban property was part and parcel of the rate base considered by the Interstate Commerce Commission and the operating revenues and expenses for the Southern Pacific lines considered by the Interstate Commerce Commission included the transbay interurban operations.

This Commission, in permitting the same increases in applicant's interurban fares that had been granted by the Interstate Commerce Commission to applicant's steam line passenger fares, also was of the opinion that the situation of the Company, as a whole, should be considered and no specific investigation was made into the operations of the transbay system alone. X

The character and scope of applicant's transbay service has been repeatedly described in previous decisions of this Commission. There should be considered in this proceeding, among other things, the apportionment between main line and suburban traffic of the value of the property, the expense of operation and depreciation, and also the factor of competitive lines operating in the same territory and the history of the construction of the Southern Pacific suburban lines. Applicant, however, has produced no evidence whatever permitting a fair survey of its entire transbay business and of the relation of this branch of its operations to its main line freight and passenger service.

It must be apparent that any statement of expense of operation is influenced primarily by the position taken in

reference to--

(a) the character of the service, i.e., whether this service is considered as a by-product of the main-line operations of the Company or whether the service should in every respect be considered as a separate and distinct enterprise under the necessity of making its own way;

(b) the methods adopted for apportionment of property and expense which is joint, directly or indirectly, for suburban and mainline service and for passenger and freight service;

(c) the methods of apportionment adopted for property and expenses as between different lines and services in the interurban operations.

With reference to the apportionment of revenue and expense to the particular services sought to be abandoned, the Company, in my opinion, has entirely failed to substantiate the contention that this particular service is operated at a loss. Mr. Robert Adams, the assistant auditor of the Company, is applicant's witness in this matter. He submitted and explained the statements which have been summarized above and testified that practically the entire expense of operation, as shown in his exhibits, would be eliminated and saved by the Company if the lines were abandoned as prayed for.

When he was asked how he could estimate such a saving without taking into consideration, at the same time, the loss of income now received by the Company from these services, he testified that, in his opinion, no loss in revenue would result to the Company and that the income now derived from the services sought to be abandoned would be added to the income from other present services given by applicant, because such other services could take care of this business. X

The facts in the case clearly show that this view is erroneous. It is apparent that the business now done by the Alameda and Oakland crosstown line (providing the Company with revenue for the year 1920 of \$117,837.00) would be lost to the Company in its entirety in case of abandonment of the entire service because this business could only be handled by the competing traction line. The local business now done on the 14th and Franklin Street interurban line via Alameda Pier would also be lost to the Company, but what revenue would be lost because of the abandonment of the Oakland-San Francisco through service via Alameda Pier is problematical. This, in fact, appeared to be the view taken by another one of the Company's witnesses (Mr. J. P. Potter, Superintendent of Transportation of the San Francisco-Oakland Terminal Railway, the Southern Pacific Company's competing line in the transbay service). His testimony is introduced by the Company in order to show that public convenience and necessity would not suffer by the proposed abandonment because the Key Route lines are

said to be amply able to take care of the traffic now handled by applicant between Oakland and Alameda. He testified as follows (tr. p. 183-184):

"Q. If the Southern Pacific abandoned the operation of this so-called dinkey line between Oakland and Alameda, could the lines of your company adequately handle the traffic?

A. Yes, we could take that over without any serious inconvenience, from the traffic that I understand that they are handling there at the present time.

Q. If the traffic requirements should increase, could you accommodate the traffic, and also put on additional equipment as may be necessary?

A. We would do the same with that line that we do with every other line, we would make very careful surveys of the number of people that were handled and the hours that they were travelling and arrange a service accordingly.

Q. And if the traffic would warrant express service you might be able to do that, is that right?

A. It is somewhat difficult to install an express service where you are operating short headway. We never have found that to be a very satisfactory proposition.

Q. You have other expedients, such as skip-stops, and other schemes to expedite the headway, where the traffic is great, have you not?

A. On one line we have what might be termed as a restricted service between Hayward and Oakland in the morning and in the afternoon, but, as I stated before, an express service to operate together with local cars that are running under short headway, is difficult to establish.

MR. FOULDS: That is all."

Mr. Potter was asked to make an estimate of the portion of the business now handled by the Southern Pacific lines which would fall to the Key Route in the event of their abandonment. This estimate he has filed since the hearing and it shows that the Key System furnishes sufficient extra seats to take care of the Southern Pacific crosstown line traffic and that Mr. Potter believes it reasonable to assume that his road would get this traffic.

It must be apparent that if the Southern Pacific

Company loses any portion or all of the revenue now derived from these services, the saving estimated by Mr. Adams in his exhibits will be greatly reduced or wiped out. In my opinion there will be no saving, and very probably there will be a loss, and the net result of the operations of the entire trans-bay system will be more unfavorable to the Company after the abandonment of these services than they are at present. I come to this conclusion because, according to the Company's own figures, the net loss from railway operations of the 14th Street and 18th Street lines for September and October, 1920, amounted to only \$3,451.00. If by a different segregation of expense this book loss should be eliminated (and this result might easily and perfectly legitimately be obtained) then it would seem that this service was at least self-sustaining. Since it is clear that by an abandonment of the service a considerable proportion of the present operating expenses can by no means be eliminated and must go on regardless of whether this business is lost to the Company, it is clear to me that the loss to the Company may easily be greater after abandonment than it is now.

It is a fact that many operating expenses will continue, in whole or in part, even if these services were abandoned. This is true of many maintenance of way and structures expenses, and of many maintenance of equipment expenses, for only those expenses that vary with the car miles operated would be affected. For example, the decay of ties would go on almost regardless of the car miles operated. It is true of all general expenses and it is even true of certain classes of transportation expenses.

Assuming, for the purpose of this discussion, that in the interest of economy and with public convenience and necessity permitting, certain of the interurban lines

or services should be abandoned, even then such abandonment should only be permitted after the present situation in regard to the entire transbay service is properly before the Commission in all of its aspects. Abandonments should then be permitted only in the proper order. Such services or lines should first be abandoned as are not required by public convenience and necessity and that show the largest losses. This Commission cannot permit a utility to abandon services to suit its own purposes, especially when the real purposes are not apparent from the application.

The Company is aware of the necessity of a comprehensive view of the situation. President Sproule's letter quoted above states:

"It is virtually impossible to deal with any of these matters (referring to the transbay traffic problems) piecemeal without a comprehensive understanding of the situation as a whole."

A great deal was said at the hearing about the investigation now being made by the Company through a committee of traffic experts. We understand that this committee has been at work for a number of weeks and is now at work and is reporting to the superior officers of the Company. Applicant, however, is unwilling at this time to inform either the interested communities or this Commission of the scope and character of the instructions given this committee or of the nature of the work they are doing. Since the recommendations of this traffic committee, assuming it is free and capable to study the situation as it exists and to report its unbiased conclusions, must undoubtedly be of great importance to the business and to the people of the transbay communities, it would seem wise that the views and wishes of the representatives of these people and interests be from the beginning in the mind of that committee. Also, applicant is aware that this Commission itself, through its engineering and service departments, has made exhaustive

investigations into the transbay interurban service, both Southern Pacific and Key Route, and that the conclusions of the Commission's employees were incorporated in an elaborate report which is available to the Company. While this Commission has no desire, of course, to inject itself into any detail matter of management or operation, unless this is necessary in formal or informal proceedings, here is a situation where undoubtedly, in the end, nothing permanent or satisfactory can be accomplished unless the communities interested, the railroads, and this Commission act in co-operation. If an honest effort is made to solve these present problems, the course best calculated to produce results for all concerned, in my opinion, would be to begin with this co-operation rather than to end with it. This as it appears from the record, is also the view of the cities of Oakland, Alameda, and of the County.

There were introduced by the County of Alameda, over the protest of applicant, exhibits showing the orders issued by the War Department, demanding the abandonment of the present county drawbridge at Webster Street and the present Southern Pacific bridge at Harrison Street, and covering an agreement between the County of Alameda and the Southern Pacific Company providing for the construction of a joint bridge in lieu of the two to be abandoned. It appears that several years ago the County of Alameda voted a bond issue of \$900,000.00 for the portion of its share of the cost of the new joint bridge and that approximately \$200,000.00 has thus far been expended by the County towards such construction. According to the agreement between the County and the Company, applicant was to furnish final plans for the bridge and construction was to begin in the near future, the last

order of the War Department reading to the effect that the old bridge must be removed by July 1, 1922.

Counsel for the County of Alameda expressed the opinion that the real reason for the abandonment of service proposed in this application was a disinclination of the Company at this time to proceed with the construction of the bridge under the terms of the contract, principally on account of the much higher present costs for labor and material, as compared with the original estimates. It does not seem necessary for us to express an opinion whether or not this matter is a controlling factor in this application. It is apparent, however, that in the present proceeding applicant asks for permission to abandon certain passenger service only and that nothing is said in the application that would justify the assumption that an abandonment of structures or taking up of any trackage is contemplated by the Company. The Harrison Street bridge, which is part of the line over which the service here considered is operated, not only is a facility used in the passenger service, but is also used in applicant's freight service. If the bridge were abandoned and no other railroad bridge re-constructed in its place, there also would have to result changes in the freight service. There is nothing in the present record that would indicate whether or not the Southern Pacific intends to make such changes in its freight service. The City of Oakland and the Chamber of Commerce of Oakland, as also the County of Alameda, laid stress on the importance of that aspect of the matter.

These matters are mentioned, not because they have any particular bearing on the question of whether or not the passenger service sought to be abandoned is required in the interest of public convenience and necessity or whether this service results in a loss to the Company, but merely to further

substantiate the soundness of the proposition that a solution of the transbay problem cannot be had by piecemeal adjustments but should proceed only after the entire situation is known and properly before the Commission.

It is my opinion that the contention of applicant that public convenience and necessity permit the granting of this application and that large losses will be incurred by applicant if such service is continued and that, on the other hand, large savings can be made if such service is abandoned, has not been established. On the contrary, the record clearly shows that there is protest on the part of the cities of Oakland and Alameda, and on the part of the County of Alameda, and also on the part of many individuals against the abandonment of this service and that a very large number of people would be seriously inconvenienced if this service were done away with. I am satisfied that only very controlling reasons proving serious damage to applicant could permit the Commission to grant this application and such reasons have certainly not been shown in this record. It is my recommendation, therefore, that the application be denied. I suggest the following form of order:

O R D E R

Application having been made by the Southern Pacific Company to abandon all passenger service now operated by it across the San Antonio Estuary in Oakland, Alameda County, California, at or in the vicinity of Webster Street, a hearing having been held and the Commission having given careful consideration to all the evidence and to the general circumstances in connection with the service sought to be abandoned and it appearing to the Commission that public convenience and necessity demand the continuation of this service and that such service

should not be abandoned until it has been clearly established that permanent serious and irreparable loss would result to the Company from the continuation of this particular service, and no such proof having been made before the Commission,

IT IS HEREBY FOUND AS A FACT, that public convenience and necessity require a continuation of this service at this time and

IT IS HEREBY ORDERED that the application should be and hereby is denied without prejudice.

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 30th day
August
of July, 1921.

H. P. Boudier
H. D. Loveland
Dwight Martin
J. P. ...
Commissioners