

Dec. 1919 No. 9539 =

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Walter G. Eisenmeyer, Horace E. Smith, Arthur P. Bond, James E. Shultz, Thomas M. Buley, Sidney K. Johnson, Holthy R. Myers, J. B. Yarnell, Verne M. Osborne, Frank E. Baker, Charles W. Hill, Col. William Stover, and J.D. Minster,

Complainants,

vs.

Los Angeles & Mt. Washington Railway Company, a corporation.

Defendant.

CASE No. 1619.

Sidney J. Parsons, for Complainant,
Woodruff & Shoemaker, for Defendant,
Joss E. Stephens, for City of Los Angeles,
Henry Z. Osborne, Jr., for City of Los Angeles.

BENEDICT, Commissioner:

O P I N I O N

The complainants ask, on behalf of themselves and certain property owners and residents of Mt. Washington, in the City of Los Angeles, that the Commission make an order requiring the Los Angeles & Mt. Washington Railway Company, the defendants herein, to resume operation of its railroad, and to put the property in such condition that a safe and convenient service can be given.

The defendant in its answer alleges that the railroad has not been operated for more than two years and that discontinuance of operation was ordered by the Board of Public Utilities of the City of Los Angeles on or about January 9, 1919. Other

reasons why the Commission should not make an order as prayed for by complainants were also given by defendant.

It appears from the Commission's files that this matter has been informally before the Commission since September, 1920, and that all informal means to assist the complainants have been exhausted. The issue of the Commission's jurisdiction was raised when the present formal complaint was brought and this matter was set down, therefore, for a hearing on the question of jurisdiction. I am satisfied, after careful consideration, that this Commission has no jurisdiction in the present complaint, since the defendant railroad is under the complete control of the City of Los Angeles so far as the matter of service is concerned.

It is apparent that, under Section 23 of Article XIII of the Constitutional Provisions (amendment adopted November 3, 1914), an order requiring resumption of service on this railway falls within those powers of the municipality which the City of Los Angeles has not seen fit to transfer to this Commission under the provisions of this section.

It was agreed by both parties that this complaint should be referred by the Commission to the Board of Public Utilities of the City of Los Angeles for such action as the Board might see fit to take and I suggest that this be done.

I recommend that the complaint be dismissed without prejudice.

O R D E R

It appearing to the Commission that the above entitled proceeding is not within the jurisdiction of the Railroad Commission of the state of California for reasons set forth in the preceding opinion, and that the complaint should be dismissed,

IT IS HEREBY ORDERED, that said proceeding be and the same is hereby dismissed 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 23rd day of September, 1921.

HW Brandt
Ed Loveland

James Martin
Charles H. Brown

H. Stanley Benedict
Commissioners.