

Decision No. 9873.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of Peninsular Railway Company for an order granting permission to increase rates for transportation of passengers on its lines in the State of California.)

APPLICATION NO. 6413.

Wm. F. James and E. C. Edgerton, for Applicant,  
Archer Bowden, City Attorney, for City of San Jose,  
W. D. Wall, for Traffic Bureau San Jose Chamber of Commerce,  
Norman E. Malcolm, City Attorney, for City of Palo Alto.

LOVELAND, COMMISSIONER:

O P I N I O N

In this application Peninsular Railway Company seeks an order for authority to increase certain passenger fares, alleging as a reason therefor a net loss during the nine months ending September 30, 1920 of \$235,645.27.

Attached to the application, as Exhibit "C", are copies of tariffs and schedules showing specifically the rates it is proposed to increase. Briefly, these are as follows:

- 1- Straight fare to be increased from 6¢ to 10¢:
  - (a) Between San Jose and Cherry Avenue.
  - (b) Between San Jose and Bascom Avenue.
  - (c) On Eagle Park Line in San Jose.
  - (d) On Palo Alto city lines.
- 2- Seven cent token fares are to be sold five for 35 cents on the above lines.
- 3- One-way Zone fares on the main line to be increased from 8¢ to 10¢.
- 4- School children's 46-ride commutation fares on the lines mentioned under Item 1 are to be increased from \$1.85 to \$2.22.

Applicant operates daily electric interurban service - passenger and freight - between San Jose, Palo Alto and Los Gatos (designated the main line) and on Sundays and holidays between San Jose and Alum Rock Park, using in part the tracks of the San Jose Railroads, which operates this line the balance of the time. Street car service is operated on the Naglee Park Line in San Jose between San Jose and Bascom and between Palo Alto and Stanford University. It is evident, therefore, that no increase is asked for main-line or interurban fares, except as in Item 3 above. The fares in Item 1(a) are really the city line fares, although the service is performed by interurban cars.

It may be here noted that the Southern Pacific Company, through ownership of all of the capital stock, is in direct control of applicant; also that the same set of officers, as well as many employees, act for the San Jose Railroads and for the Peninsular Railway Company, the former being controlled by the Southern Pacific in the same way as is the Peninsular Railway. Between Mayfield and Vasona Junction - sixteen miles - one track of applicant is leased to Southern Pacific Company.

During the first hearings, held March 1 and 2, 1921, the Commission was asked to have its engineering department prepare a valuation and a report on the service and operation of this carrier. This request was granted.

At the second hearing, held August 12, 1921, Application No. 6414 of the San Jose Railroads was also considered and Mr. Weeks of the engineering department submitted a report on the service, operating and financial conditions of both the San Jose Railroads Company and Peninsular Railway Company, this report being identified as Commission's Exhibit No. 2.

At the first hearings a valuation submitted by applicant

upon the Commission's order in Case 133 was stipulated into the evidence in this proceeding. witness for applicant stating that the reproduction value therefrom as of June 30, 1914 was \$4,480,190.69; that additions and betterments from the above date to September 30, 1920 amounted to \$178,822.72 and by adding this to the original valuation arrived at a total as of September 30, 1920 of \$4,659,013.41.

In the Commission's Exhibit No.2 it is stated that the engineering department never verified or made a check of this valuation; the reason this was not done being because the rate of return is so small and the impossibility of any fair return so obvious that the value of the property is not an important factor in the fixing of the fares upon this road.

The cost of applicant's physical property can be approximately but not accurately determined, the loss of certain records preventing such accurate determination. Applicant's valuation department made, in connection with the valuation, a check of such records as exist and, as far as possible, distributed charges in accordance with the prescribed classification of expenditures. Since, however, the total thus arrived at includes certain figures for securities, these should be excluded in stating the cost of physical properties. As a result of such exclusion the Commission's Exhibit No.2 shows two figures - \$3,562,147. and \$3,244,106. but states it is not, for the reason stated in the previous paragraph, essential at this time to reconcile these figures one with another or with the totals given in the Company's valuation.

Considerable evidence was introduced with respect to revenues, operating expenses, taxes and other costs as of and for different periods. The application deals with one set of figures -

those for the nine months ending September 30, 1920. At the first hearing another set, preliminary figures for 1920, was introduced and it was then stipulated that the annual reports should be considered in evidence and these reports show a third set of revised figures for the Calendar year 1920. In Commission's Exhibit No.2 is still another set of figures, restated in some respects from the 1920 annual reports and as these figures are for the latest period available and form the basis of final oral evidence they are set forth below:

Present Scheme of Operations - 1920

Gross Revenue		\$ 354,417
Operating Expenses		258,752
Railway Operating Revenue	Loss -	4,335
Taxes		18,786
Operating Income	Loss -	23,121
Non-operating Income, Net		30,425
Gross Income		7,304

Additional Revenue and Savings

Estimated Savings in cost of Operation	\$8,031	\$	
Estimated Net Revenue from San Jose			
	Railroads	-	6,615
Total	-	-	14,646
Company's Valuation	-	-	21,950
Return	-	-	4,643,666
			0.47%

In addition, the following summary may also be taken from this Exhibit:

"Due to disturbed industrial conditions, particularly in the fruit canneries, which materially affect both the passenger and freight revenue of this road, and because of the fact that at this writing the company is about to change its schedule and reduce some of its main line fares, the Company officials are unwilling to make an estimate of what this road's revenues and expenses will be. Since, however, the Company earned last year only 0.16% on its own valuation, and since it must be obvious that fares cannot be installed which will enable it, as a whole, to earn anything like a fair return on any reasonable valuation, this estimate of future earnings and expenses do not seem particularly important.

"We estimate, however, that revenues may be increased \$14,646 as shown in the table and as will be explained. \$ 6,615 of this figure is due to our belief, that San Jose Railroads should adequately compensate Peninsular Railway Company in the matter of shop and store expenses, the latter

"furnishing land, buildings and equipment for the use of the former and for such use inadequate compensation having been previously charged, and that Peninsular Railway should be charged with a fair rental by San Jose Railroads for use of the latter's General Offices.

"Applicant has asked authority to increase zone fares on the main line, a relatively negligible matter; to increase fares on its lines in the city of San Jose, the answer to which appears to us to lie with the decision as to fares on San Jose Railroads; increase its fares on the Palo Alto city lines submitting in support of the latter a statement showing that the return (on the Palo Alto city lines) is \$3,825.10 less than a return of 6% on the valuation of the properties used. Due to minor exceptions we take in this statement as to expenses; to economies which can be effected; and to the normal growth of business - particularly as evidenced in the past six months - we believe that the Company can earn a return (on the Palo Alto city lines) of 9.5% and without such economies we find it is actually earning 8.1%.

"If the requested increase in fares were granted and the increase added to the revenue of the Palo Alto city lines to the extent of 8% as estimated by the Company, we find the return would then be 11.6%.

"Included in the savings mentioned for the Palo Alto city lines is a substantial saving in power losses which could be effected by moving existing sub-station equipment from Los Altos to Palo Alto. Further economies in sub-station operation could be effected by providing for automatic operation of sub-stations at Los Altos and Palo Alto. This, however, requires an expenditure of \$17,200.

"It also was found that some saving, together with a very material improvement in service, could be effected by changing the principle of operation of main line cars and changing to one-man operation on the Campbell line. Our investigation disclosed that main line cars were standing at terminals nearly one-third of the time and the change herein suggested is predicated on the theory that if this standing time were eliminated, the additional car miles run, together with a better arrangement of leaving times, would result in not only better service, but increased revenue. We have, however, not estimated the amount. We understand a new schedule based largely upon our findings is shortly to be put into effect."

The record does not indicate any exception being taken to the figures given above. The direct result of this situation is found in that these figures may be accepted as facts surrounding the results of the operation.

Commission's Exhibit No. 2, page 52, gives the total revenue from the Palo Alto city lines for the year 1920 as \$50,540. and the estimate for 1921 as \$56,500. and if the proposed fare increases were authorized and the company's estimate of 8% additional

gross revenue were realized the annual revenue is estimated at \$61,000. It is to be noted that the Palo Alto city lines are now earning 8% on the company's own valuation of this particular property and that if certain economies were practiced a return of 9.5% would be earned; further, that if the rates were increased and as a result the gross revenue increased to the extent of 8%, the net return on the investment at Palo Alto would then be equal to 11.6%.

The testimony showed that the Palo Alto city lines, while forming a part of the Peninsular Railway System, are operated entirely separately from the interurban service, no interurban cars or car employees being used thereon. The representative of the city of Palo Alto took the position that the city lines are not necessarily a part of the interurban system, but rather represent a distinct street car service in and of themselves.

If the interurban system of the Peninsular Railway were entirely discontinued, the Palo Alto city lines could, nevertheless, operate with profit under the management of the same officials that handle the San Jose Railroads, all of which properties are owned by the Southern Pacific Company.

If applicant were before the Commission asking for a general increase in its entire rate fabric the Palo Alto lines would, without doubt, be required to stand the same general increase, but since this is not suggested we are of the opinion that the patrons of the company using the street car line between Palo Alto and Stanford University should not be compelled to pay an excessive rate in order to enable applicant to make a small increase in its net return on the investment of the entire system.

The Naglee Park Line is strictly a street car service, operated by Birney one-man cars, located entirely within the city of San Jose; so far as the traveling public is concerned it is

virtually a part of the San Jose Railroads, transfers being exchanged between the two city lines, but not with the interurban line of the Peninsular Railway. The passengers of the Cherry Avenue and the Bascome Avenue lines are carried on both the interurban and the local cars and these lines - Cherry Avenue and Bascome Avenue - are about three miles from the business center of San Jose, but without the city limits. The fares on these two lines were, some time ago, increased from 5 to 6 cents, the same as the fare increase authorized between points on the San Jose Railroads.

The adjustment now proposed for the transportation of passengers on the Cherry Avenue, Bascome Avenue and Naglee Lines is an increase in the single fare from 6 to 10 cents, with the sale of five token fares for 35 cents, or at rate of 7 cents per ride, and is the same as proposed on the San Jose Railroads in Application No. 6414, filed the same day as this proceeding and heard jointly herewith. It therefore appears to be applicant's position and intention to maintain the same relationship of street car fares on the Peninsular Railway as is charged by the San Jose Railroads, and there seems to be no good reason for permitting a change in this practice.

I therefore recommend that there should be no increase in the local street car fare of this applicant, particularly when the estimated increases for the Peninsular Railway will have such a negligible effect on the revenue of the system as a whole.

The proposed increase in zone fares on the main line from 8 cents to 10 cents are, according to the Company's Traffic Manager, merely paper rates, appearing in the tariffs solely for the purpose of having a rate to apply for the occasional passenger

who makes use of the service. Practically no revenue accrues under these rates, therefore no reason exists for making the change.

As to the proposed increases in school children's 46-ride commutation fare from \$1.85 to \$2.22, I am also of the opinion no justification has been offered for the change.

In that part of the Commission's Exhibit No.2, heretofore quoted, it will be noted that the revenues of the Peninsular Railway Company should be increased \$6,615.00 annually by the San Jose Railroads adequately compensating the Peninsular Railway in the matter of shop and store expenses and, on the other hand, that the Peninsular Railway should be charged a fair rental by the San Jose Railroads for the use of its tracks and general offices. Those inter-company charges should be made in such manner that each road would bear an equitable portion of the expenses. Under the present arrangement it would appear the burden of the expenses of shop and stores rests unfairly with the Peninsular Railway.

It is further recommended that savings and improved service can be effected by the Palo Alto city lines by moving the existing sub-station equipment from Los Altos to Palo Alto. There is also a possibility of increasing revenues by economies in operation; that is, by changing the principles of operation of main line cars, and changing to one man operation on the line to Los Gatos via Campbell.

In the closing argument attorney for applicant made this statement:

"We believe the owners of this property have a right themselves to assume to take the risk, if any exists, of the loss of business through increased fares; that it does not lie within the discretion of the city or the Commission to say to this Company 'We won't permit you to take the risk with your property'. We think the Company itself has the right to take that risk, assuming now that the increase is justified on a proper rate base and won't produce unreasonably high earnings. So we want to frankly announce our position in that regard. We want to take the risk. We don't think it is risk, but if there is any we want to take it and the Company will suffer all the bad effects and the public none if we lose."



It is a fact, however, that the increases asked for do not materially increase the revenue of the road as a whole, certainly not up to the point where it would earn anything like a fair return. It is equally true that the Palo Alto city lines are now earning a fair return.

The annual report, however, for the year ending December 31, 1920 shows that as compared with 1919 the railway operating revenue increased by \$48,035.70; the operating income by \$24,441.78, and gross income by \$22,630.91. The principal increases in expenses in 1920 over 1919 occurred in the maintenance of track and roadway and in conducting transportation. These items involve, principally, labor and materials, which are gradually reducing in cost, and in reaching a conclusion in this situation consideration has been given to probable continued reductions.

There is, also, every indication of an advance in the volume of traffic if the present rates are maintained, for the gross railway operating revenue was \$7887.65 higher in 1919 than in 1918 and \$48,035.70 higher in 1920 than in 1919, or a total increase of \$55,923.35 in the two years 1919-1920 as compared with the year 1918.

This applicant has received a number of increases in its passenger fares and freight rates during the past few years, and I am of the opinion that to further increase these particular passenger fares at this time would be out of harmony with the spirit and purpose of the Public Utilities Act, which recites in Section 13 that all charges must be just and reasonable.

When rates are too high, because of economic conditions, they not only retard and reduce the earnings of the carrier but result in loss to the traveling public who, finding themselves unable to employ the facilities of the carrier, either go without the service entirely or turn to the other channels of travel. In a situation of this kind it becomes the duty of this Commission to deny increases in fares which we believe would have the effect of further reducing passenger earnings by driving travel to the automobiles.

The application should be denied without prejudice.

O R D E R

Peninsular Railway Company having applied to the Railroad Commission for authority to increase certain of its passenger fares as shown in Exhibit C attached to its application, a public hearing having been held, the matter having been submitted, and for the reasons stated in the foregoing opinion,

IT IS HEREBY ORDERED that the application herein be and it is hereby 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 29<sup>th</sup> day of November, 1921.

H. J. Brundage  
H. W. Lovelace  
Wm. W. Martin  
Chas. H. Jones  
H. C. Brundage  
Commissioners.