

Decision No. 27492.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
PACIFIC ELECTRIC RAILWAY COMPANY, a
corporation, for an in lieu certificate
of public convenience and necessity.

Amended 21st Supplemental
Application No. 17984.

In the Matter of the Application of the
LOS ANGELES RAILWAY CORPORATION for an
in lieu certificate for its motor coach
lines.

Amended 6th Supplemental
Application No. 19179.

In the Matter of the Application of
PACIFIC ELECTRIC RAILWAY COMPANY for
authority to abandon that portion of its
South Pasadena Line lying between Mission
Road and the intersection of Mission
Street and Fair Oaks Avenue in the Cities
of Los Angeles and South Pasadena, Cali-
fornia.

Amended
Application No. 19608.

R. E. Wedekind, for Pacific Electric Railway Company.

Gibson, Dunn & Crutcher, by J. S. Neary and Woodward
Taylor, for Los Angeles Railway Corporation.

Ray L. Chesebro, City Attorney, and
Carl I. Wheat, Public Utilities Counsel,
for the City of Los Angeles.

Harold P. Euls, City Attorney,
Leonard D. Diether, Assistant City Attorney,
for City of Pasadena.

J. Ogden Marsh, for the Board of Public Utilities
of the City of Los Angeles.

H. E. Vedder, City Attorney, for the City
of South Pasadena.

Harry See, for the Brotherhood of Railroad Trainmen.

Victor E. Wilson, for the Brotherhood of Railway
Carmen of America, Sunset Lodge 410, and for the
Brotherhood of Utility Employees of America,
Local No. 320.

BY THE COMMISSION:

O P I N I O N

The above entitled proceedings deal with a plan to

eliminate operations on the greater portion of Pacific Electric Railway Company's South Pasadena rail line and, coincident therewith, substitute bus service by the establishment of new motor coach lines and extension of existing motor coach lines of both Pacific Electric Railway Company and Los Angeles Railway Corporation. No fare change is involved in these proceedings.

Public hearings on these matters were conducted before Examiner Hunter in Los Angeles on October 16th, 17th and 24th 1934.

In view of the fact that these applications are more or less interlocking, it was stipulated by all parties that they be consolidated for both the purpose of taking testimony and decision.

In Amended Application No. 19608, Pacific Electric Railway Company seeks authority to abandon passenger service over that portion of its South Pasadena Line lying between Mission Road in the City of Los Angeles and the intersection of Mission Street and Fair Oaks Avenue in the City of South Pasadena, and to remove that portion of said line lying between a point eight hundred and forty feet north of Mission Road and the intersection of Mission Street and Fair Oaks Avenue. The length of line sought to be abandoned in this application is 6.5 miles. Applicant desires to retain that portion of the line between Mission Road and a point eight hundred and forty feet north thereof for the purpose of providing freight service to industrial property.

The exact description of the routes hereinafter discussed will be set forth in the Order following. In the Opinion, however, the routes will be referred to by their designation and such description as appears necessary to identify them.

In 21st Supplemental Application No. 17984, as amended, Pacific Electric Railway Company seeks authority to rearrange

certain of its bus lines and also establish service along additional routes, as follows:

1. Abandon the so-called Annandale-Avenue 64-Hermon Line, as authorized by the Commission in Decision No. 26771, dated January 29th, 1934, in this proceeding.
2. Rearrange the routing on the so-called California Street-South Los Robles Avenue Line operated in the San Rafael district, the present route being authorized in said Decision No. 26771.
3. Rearrange the North Los Robles Avenue Line, the present route being prescribed in said Decision No. 26771.
4. Rearrange the so-called Hill Avenue-Orange Grove Line, the present route being outlined in Decision No. 27025, dated May 7th, 1934, in this proceeding.
5. Establish a new motor coach line designated as South Pasadena-Highland Park-Monterey Road Motor Coach Line.

In Sixth Supplemental Application No. 19179, as amended, the Los Angeles Railway Corporation seeks authority to establish new motor coach lines along the following routes:

1. Highland Park Line, extending from the General Hospital in Los Angeles to Avenue 64 and Meridian Street.
2. To extend its so-called Avenue 50 and El Paso Drive Line from Monte Vista Avenue to North Figueroa Street.

The establishment of proposed operation on the bus lines sought in said Sixth Supplemental Application No. 19179, as amended, and in 21st Supplemental Application No. 17984, as amended, is contingent upon discontinuance of service on Pacific Electric Railway Company's South Pasadena Line, as proposed in Application No. 19608, as amended.

The record shows that the present track of the Pacific Electric Railway Company's South Pasadena Line, which it now seeks to abandon, was constructed in 1911 and is now in poor physical condition. It must be repaired within the next two years if rail service is to be continued; furthermore, a number of public improve-

ments are now being held up pending the determination of this matter. Exhibit No. 9, introduced by Pacific Electric, shows that it will cost \$455,444 to rebuild this double track line, divided as follows:

In the City of Los Angeles:

	<u>Additions & Betterments</u>	<u>Operating Expense</u>	<u>Total Cash Cost</u>
Reconstruct and pave 14,231 lineal feet double track	\$ 84,500	\$200,000	\$284,500
Relocate and reconstruct tracks from Woodside Drive to Avenue 50, 2980 feet double track.	21,806	3,278	25,084

In South Pasadena:

Reconstruct and pave 6,630 lineal feet double track.	<u>45,860</u>	<u>100,000</u>	<u>145,860</u>
	<u>\$152,166</u>	<u>\$303,278</u>	<u>\$455,444</u>

It is estimated that it will cost \$46,492 to remove the facilities and repair the paving and that there will be a salvage value for materials removed amounting to \$15,478, leaving a net cost to the company of \$31,014. The ledger value of the property sought to be abandoned amounts to \$584,749.54, of which \$17,416.76 represents land, the remainder being track structure, overhead and other facilities.

A statement of revenues and expenses on this line between Sixth and Main Streets in Los Angeles, and the end of the line at Mission Street and Fair Oaks Avenue in South Pasadena, during a 3½-year period is shown by Pacific Electric Railway Company's Exhibit No. 5 to be as follows:

Item	Years			7 Months
	1928	1929	1933	1934
Operating Revenues	\$165,346.62	\$161,699.19	\$ 97,265.09	\$54,077.35
Cut-of-pocket Expenses	<u>165,444.51</u>	<u>201,362.27</u>	<u>106,400.14</u>	<u>61,022.01</u>
Net Loss - Railway Operations	97.89*	39,663.08*	9,135.05*	6,944.66*
Taxes assignable to railway operations	<u>8,802.03</u>	<u>8,609.46</u>	<u>4,221.99</u>	<u>2,348.44</u>
Railway Operating Loss	<u>\$ 8,899.92*</u>	<u>\$ 48,272.54*</u>	<u>\$ 13,357.04*</u>	<u>\$ 9,293.10*</u>
Car Miles	808,836	773,225	623,524	325,686

* - Red Figures.

A further segregation of the revenues and expenses on the South Pasadena Line is shown on Pacific Electric Railway Company's Exhibits Nos. 6 and 7, segregated between the portion of the line sought to be abandoned (Mission Road-Mission Street and Fair Oaks Avenue) and the remainder of the line over which applicant plans to maintain service (Sixth and Main Streets-Mission Road), as follows:

Item	Year 1933		
	6th & Main-Mission Road	Mission Road-South Pasadena	Total
Operating Revenues	\$ 43,895.67	\$ 53,369.42	\$ 97,265.09
Out-of-pocket Expenses	<u>33,229.51</u>	<u>73,170.63</u>	<u>106,400.14</u>
Net Income or Loss - Railway Operations	\$ 10,666.16	\$ 19,801.21*	\$ 9,135.05*
Taxes Assignable to Railway Operations	<u>1,870.50</u>	<u>2,351.49</u>	<u>4,221.99</u>
Railway Operating Income or Loss	<u>\$ 8,795.66</u>	<u>\$ 22,152.70*</u>	<u>\$ 13,357.04*</u>
Car Miles	191,318	432,206	623,524

* - Red Figures

January 1st to July 31st 1934, Inclusive

I t e m	6th & Main-	Mission Road :	Total
	Mission Road :	South Pasadena:	
Operating Revenues	\$25,755.03	\$28,322.52	\$ 54,077.35
Out of Pocket Expenses,	20,519.36	40,502.65	61,022.01
Net Income or Loss - Railway Operations	\$ 5,235.67	\$12,180.33*	\$ 6,944.66*
Taxes Assignable to Railway Operations	1,097.46	1,250.98	2,348.44
Railway Operating Income or Loss	\$ 4,138.21	\$13,431.31*	\$ 9,293.10*
Car Miles	83,529	242,157	325,686

* = Red Figures

Pacific Electric Railway Company's Exhibit No. 14 shows the result of a traffic check during the week ending September 15, 1934, over the line sought to be abandoned, as follows:

O U T B O U N D			
Day	Total Passengers on car leaving General Hospital	Revenue Passengers: Boarding Car beyond General Hospital	Non-Revenue Passengers Boarding: Car beyond General Hospital
		General Hospital	Hospital
Sunday	464	492	41
Monday	799	582	50
Tuesday	928	728	59
Wednesday	872	759	57
Thursday	914	741	56
Friday	870	685	61
Saturday	759	604	40

I N B O U N D			
Day	Total Passengers on car leaving General Hospital	Revenue Passengers Boarding Car between: Mission and Fair Oaks, and General Hospital	Non-Revenue Passen- gers boarding car between Mission and: Fair Oaks, and General Hospital
		General Hospital	General Hospital
Sunday	411	762	111
Monday	712	1159	176
Tuesday	781	1311	160
Wednesday	816	1318	166
Thursday	788	1278	168
Friday	790	1252	177
Saturday	637	1126	140

Exhibit No. 2 sets forth income statement for applicant's

entire operations which shows that the operating revenues have decreased from \$18,310,987 in 1928 to approximately \$9,062,840 in 1933. The corresponding operating expenses have decreased from \$15,876,041 to \$8,639,788. The operating income decreased from a profit of \$1,296,204 in 1928, to a loss of \$156,985 in 1933, and for the first seven months of 1934 the operating loss amounted to \$174,507.

Under the revised plan of local transportation proposed in these applications, the passengers who have heretofore been carried on the Pacific Electric Railway Company's South Pasadena Line will be afforded service on the proposed bus lines which will traverse this district, together with that offered by the Los Angeles Railway Corporation's rail line (Line "W") which in a general way parallels the Pacific Electric Railway Company's South Pasadena line between the intersection of Avenue 38 and Marmion Way and the intersection of Pasadena Avenue and North Figueroa Street. Generally speaking the "W" line of the Los Angeles Railway Corporation is located approximately two blocks to the west of said South Pasadena line of the Pacific Electric Railway Company.

The Los Angeles Railway Corporation offers to establish the bus lines referred to above and in addition offers to improve service on its "W" rail line so as to adequately and efficiently meet any new or additional requirements that may be made on it resulting from the abandonment of Pacific Electric Railway Company's South Pasadena line as proposed herein. It has also expressed its willingness to consider rerouting certain of its cars in the downtown section of Los Angeles, if necessary, to expedite rail traffic on the "W" line.

The record shows that the City of Los Angeles is not opposed to the granting of these applications, provided the district

affected is afforded adequate transportation which in no event must be less than that now offered. It introduced testimony to show that the service on the "W" line should be improved, particularly during the time of the morning and evening peak travel. It was urged that some seven additional cars be placed in service on this line to relieve congestion. In answer to this contention, officials of the Los Angeles Railway Corporation stated they were ready, willing and able to add as many cars to this line as was reasonably necessary to not only care for the present traffic but the additional which would flow as a result of the abandonment of Pacific Electric Railway Company's South Pasadena line. It was shown that the general transportation committee, consisting of representatives of the City of Los Angeles, this Commission's Engineering Department and the carriers, studying the local transportation problems in the City of Los Angeles, has held many conferences and made numerous studies on the question of adequacy of the service on this and other lines in the City. While it does not appear desirable to prescribe in this order the exact number of cars to be added to the "W" line, or the headway that should be maintained, the Commission's action in this proceeding is contingent upon the Los Angeles Railway's assurance that it will provide adequate and efficient service on this line.

Officials of the City of South Pasadena take about the same position as that expressed for the City of Los Angeles, to the effect that they will not oppose the granting of the applications provided these carriers maintain adequate public transportation to that city. Particular request was made for the privilege to transfer between Pacific Electric Railway Company's Los Angeles-Pasadena line and the proposed motor coach line on Mission Street through South Pasadena at the intersection of Mission Street and Fair Oaks Avenue. The General Manager of the Pacific Electric Railway Company stated that it was the position of his company that it would not oppose the issuance of such a transfer, provided it would have no effect in the way of disturbing zone limits on the system and would not be considered as a precedent in other cases.

Undue discrimination does not necessarily follow the granting in one instance of that which is withheld in others. Attending circumstances and conditions must be substantially similar. What circumstances and conditions obtain at points where the privilege here sought is not allowed, the record does not disclose and the Commission cannot, therefore, undertake to say that the granting of this privilege would or would not be unduly discriminatory. If applicant elects to permit the routing of traffic to and from South Pasadena via Mission and Fair Oaks, we see no objection on this record, but this must not be taken as a finding by the Commission that undue discrimination may or may not be brought about thereby.

City officials of South Pasadena also urged that service on the bus line along Mission Street be operated on a headway of ten minutes during the morning and evening peak travel. While this will not be specified in the Order, it should be understood that the company will give sufficient service on this line to reasonably meet the traffic requirements.

The record shows that as a result of conferences between the officials of the City of Pasadena and the Pacific Electric Railway Company, the original 21st supplement to Application No. 17984 was amended so as to provide for a rearrangement of the bus lines affecting portions of the cities of Pasadena and Los Angeles. It appears that the City of Pasadena is now in agreement with the revised plan of serving this district.

Some opposition developed to the abandonment of Pacific Electric Railway Company's South Pasadena line. Particular reference is made to a representative of the Fourteenth District Federation Association who contended that if the South Pasadena local line is discontinued it will throw a heavy load on the "W" line of the Los

Angeles Railway Corporation which is already over-crowded during times of peak travel; that the district has for many years enjoyed competitive rail transportation which will be removed if the revised plan of service is put into effect as applied for in these proceedings; that although the "W" line is located within a short distance of the South Pasadena Line, there is considerable difference in elevation of the two tracks which will add inconvenience to many patrons who have heretofore enjoyed the service of the South Pasadena Line if they are required to travel on the "W" line of the Los Angeles Railway Corporation; and that the equipment operated by the Pacific Electric Railway Company on its local lines is superior from the point of convenience of the travelling public to that operated by the Los Angeles Railway Corporation.

At the hearing a verbal demurrer to the Commission's jurisdiction was made by counsel who entered an appearance for the Brotherhood of Railway Carmen of America, Sunset Lodge 410, on the ground that in so far as the applications relate to service within the City of Los Angeles, jurisdiction lies exclusively with the Board of Public Utilities and Transportation of that city. Neither the City nor the Board has interposed such jurisdictional objection and it is well settled that this Commission has jurisdiction over the abandonments and certifications requested in these applications.

In summing up the evidence adduced at these proceedings, we wish to announce certain features which appear to deserve special consideration. It is evident that the earnings of the Pacific Electric Railway Company have now reached the stage where every practical economy must be effected consistent with providing reasonable and adequate service to the patrons of this carrier. Its low earning position puts it in a somewhat different class than would be the case if the carrier were earning a full return. The above tabulations show that this line does not earn its out-of-pocket costs of operation and under such conditions it would require an affirmative showing of public convenience and necessity for this Commission to order a rehabilitation

of the line at the substantial costs set forth above; furthermore, it appears that this company has no ready means of securing the necessary funds to rebuild the rail line it seeks to abandon. This situation, together with the proposal to rearrange the local transportation system in the district affected, provided reasonable and adequate service is afforded, leads the Commission to the conclusion that these applications should be granted. The question of service of both applicants is one which is continually open to investigation and change to meet public requirements and rather than place in the order any specific headways or standards of service, we wish to announce that each of these carriers has a continuing obligation to provide such service on these lines as is reasonably required. Both the cities of Los Angeles and South Pasadena have urged the Commission to give these applications prompt consideration in order that they may proceed with the construction of certain city improvements, the location and character of which are dependent on whether or not the track of Pacific Electric Railway Company's South Pasadena Line is to be removed.

After carefully considering all the record in these proceedings, it is concluded that these applications should be granted and the following Order will so provide.

Pacific Electric Railway Company and Los Angeles Railway Corporation are hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State which is not in any respect limited to the number of rights which may be given.

O R D E R

Pacific Electric Railway Company and Los Angeles Railway

Corporation having filed the above entitled applications and public hearings having been held, the matters are now under submission and ready for decision.

The Railroad Commission of the State of California Hereby Finds as a Fact that the record in these proceedings justifies the granting of Pacific Electric Railway Company's Application No. 19608, as amended, to abandon operations on its South Pasadena Line, and coincident therewith to provide service to the district affected through the operation of bus lines, as proposed in 21st Supplemental Application No. 17984, as amended, and Sixth Supplemental Application No. 19179, as amended, of the Los Angeles Railway Corporation, therefore

IT IS HEREBY ORDERED that

I. Pacific Electric Railway Company is hereby authorized to abandon service on that portion of its South Pasadena Line between Mission Road, in the City of Los Angeles, and the intersection of Mission Street and Fair Oaks, in the City of South Pasadena, and to remove the facilities from that portion of the line lying between a point 840 feet north of Mission Road, in the City of Los Angeles, and the intersection of Mission Street and Fair Oaks Avenue, in the City of South Pasadena, provided, however, that the service on this line shall not be discontinued until service shall have been established on the motor coach lines applied for herein and as authorized in the following divisions of this Order.

II. Pacific Electric Railway Company is authorized to discontinue operations along the following routes:

(a) ANNANDALE-AVENUE 64-HERMON MOTOR COACH LINE:

Commencing at the intersection of Avenue 64 and La Loma Road, south on Avenue 64, west on Pasadena Avenue, south on North Figueroa Street and Avenue 57, east on Hermon Avenue and south on Monterey Road to Kendall Avenue; located in the cities of Los Angeles and Pasadena.

A certificate for this operation was granted by the Commission January 29, 1934, in Decision No. 26771 in Application No. 17984, as amended.

(b) A PORTION OF THE CALIFORNIA STREET-SOUTH LOS ROBLES AVENUE LINE:

From the intersection of Arroyo Boulevard and La Loma Road, west on La Loma Road, north on San Rafael Avenue, west on Nithsdale Road, south on Avenue 64 and east on La Loma Road to Arroyo Boulevard; all of which is in the City of Pasadena.

Line certificated in said Decision No. 26771.

III. Pacific Electric Railway Company is authorized to reroute the following motor coach lines:

(a) HILL AVENUE-ORANGE GROVE LINE, to be designated as the HILL AVENUE-HIGHLAND PARK LINE:

Commencing at the intersection of Avenue 57 and Figueroa Street, northeast on Figueroa Street, east on Pasadena Avenue, north on Avenue 64, east on Nithsdale Road, north on Annandale Road, east on Colorado Street, north on Hill Avenue to Topeka Street; located in the Cities of Los Angeles and Pasadena.

Hill Avenue-Orange Grove Line certificated in Decision No. 27025, dated May 7, 1934, in Application No. 17984.

(b) NORTH LOS ROBLES AVENUE LINE, to be designated as NORTH LOS ROBLES-ORANGE GROVE LINE:

Commencing at the intersection of Orange Grove Avenue and Marengo Avenue, west and southwest on Orange Grove Avenue, east on Colorado Street, north on Los Robles Avenue, west on Montana Street, south on Marengo Avenue, east on Atchison Street to Los Robles Avenue; also from the intersection of Atchison Street and Los Robles Avenue, east on Atchison Street, north on El Molino Avenue, west on Woodbury Road, south on Los Robles Avenue to Montana Street; all of which is located in the City of Pasadena.

North Los Robles Line certificated in said Decision No. 26771.

IV. Pacific Electric Railway Company is hereby granted a certificate of public convenience and necessity to operate motor coach service over a route to be known as follows:

SOUTH PASADENA-HIGHLAND PARK-MONTEREY ROAD MOTOR COACH LINE:

Commencing at the intersection of Huntington Drive and Monterey Road, north on Monterey Road, northwest on Avenue 60, west on Benner Street, north on Avenue 57, northeast on Figueroa Street, east and northeast on Pasadena Avenue and east on Mission Street to Fair Oaks Avenue; located in the Cities of Los Angeles and South Pasadena.

V. Los Angeles Railway Corporation is hereby granted a certificate to operate motor coach service over the following routes in the City of Los Angeles:

(a) HIGHLAND PARK LINE:

From the intersection of Avenue 64 and Meridian Street, thence via Avenue 64, Pasadena Avenue, North Figueroa Street, Pasadena Avenue, Daly Street, North Broadway, Griffin Avenue, Zonal Avenue and State Street to Marengo Street.

(b) AVENUE 50 AND EL PASO DRIVE LINE:

Commencing at the intersection of Avenue 50 and Monte Vista Avenue, thence via Avenue 50, El Paso Drive, Toland Way, Mendota Street, El Paso Drive and Avenue 50 to Monte Vista Avenue, the point of commencement.

VI. The Certificates of Public Convenience and Necessity for motor coach operations herein granted are subject to the following conditions:

1. Applicants shall file their written acceptance of the certificates herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicants shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten (10) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibits attached to the applications in so far as they conform to the certificates herein granted, or rates satisfactory to the Railroad Commission.
3. Applicants shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
5. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 5th day of November, 1934.

Leon Q. Whitwell
W. J. Linn
M. B. Linn
W. H. Linn
Frank R. Linn
Commissioners.