ORIGINAL

Decision No. 28050.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of NORTHWESTERN PACIFIC RAILROAD COMPANY, to increase one-way, round-trip and individual monthly commutation fares between San Francisco and points in the County of Marin, State of California.	Application No. 19553.

C. W. Durbrow, for Applicant.
Guy V. Shoup, " "

Carlos B. Freitas, Jerome A. Duffy, Thomas F. Keating, David B. Fyfe and Benson Wright, for Marvellous Marin, Inc., Protestant.

H. C. Symonds, for the Town of Mill Valley, Protestant.

Keith R. Ferguson, Town Attorney, For the Town of Corte Madera, Protestant.

Jordan L. Martinelli, for the Towns of San Rafael, Sausalito, Larkspur and Fairfax, Protestants.

Henry E. Creer, District Attorney of the County of Marin, for the Board of Supervisors of the County of Marin.

Jerome A. Duffy, for the Transportation Committee of the City of Belvedere and the Town of Tiburon, Protestants.

WHITSELL, COMMISSIONER:

O P I N I O N

In the above entitled application, Northwestern Pacific Railroad Company seeks authority to increase fares on its interurban system operating between San Francisco and points in Marin County.

Public hearings were conducted in this proceeding at San Rafael. At the last hearing, January 18, 1935, it was ordered that the matter would be taken under submission upon the filing of briefs, which are now before the Commission, and it is now ready for decision.

In the original application, which was filed July 25, 1934, the company sought authority to increase one-way and round trip fares between San Francisco and points in Marin County, in varying percentages, and in general an increase in commutation fares of 66-2/3 per cent. All points on the interurban system are involved in the proposed increase in fares, except Sausalito. No increase in fare is sought between San Francisco and Sausalito due to competition between applicant and Southern Pacific Golden Gate Ferries, Ltd.

Applicant anticipates that the increase in fares sought will yield sufficient additional revenue to make up the operating loss it is sustaining, based upon operations during the year 1933, contending only for a revenue sufficient to pay actual cost of operation and foregoing any claim for interest return on the investment at this time.

During the progress of hearings, a supplemental application was filed on December 1, 1934, seeking a greater increase in commutation fares, approximating 86 per cent. At a subsequent hearing, counsel for applicant stipulated that protestants might elect to stand on Schedule "A" of the original application or

Schedule "B" of the supplemental application.(1)

On December 21, 1934, a further supplemental application was filed seeking authority to put into effect immediately the increase in fares applied for in the original application, on an interim basis, to continue in effect until a final determination was made of the entire matter. This supplemental application was denied by the Commission in its Decision No. 27671, dated January 7, 1935.

The Northwestern Pacific Railroad Company, is an interstate carrier, operating between San Francisco and Eureka. In addition to the main line operation, applicant conducts interurban service between San Francisco and points in Marin County, as shown on Exhibit No. 17. The instant application deals with fares on the interurban system only, between San Francisco and the termini of the interurban operations in Marin County, viz., Mill Valley, Manor, Tiburon and San Rafael. The boat and track facilities are used jointly by the main line and interurban operations.

Applicant, in its Exhibit No. 1, shows statements of revenues and expenses for the years 1929 to 1933. A similar

(1) Exhibit "A," attached to the original application, specified increases in fares necessary to enable applicant to derive sufficient revenue to equal expenses, predicated on the actual expenses incurred in the calendar year 1933. Exhibit "B," attached to the supplemental application, specified increases in fares necessary to cover estimated increased costs for the calendar year 1935 and subsequent years. Additional items of expense approximate $58,000 per year:- approximately $15,000 per year incurred because of the necessity of paying wages of two full steamer crews on an 8-hour basis, effective February 10, 1934, instead of a crew and a half on a 12-hour basis; approximately $52,000 caused by restoration of the 10 per cent wage reduction, effective 25 per cent on July 1, 1934, 25 per cent on January 1, 1935, and 50 per cent on April 1, 1935; the sum of these offset in part by an estimated $9,000 saving by substitution of busses for transporting Tiburon-Belvedere traffic effective February 1, 1934.

statement for the first six months of 1934 was shown in Exhibit No. 2. These two exhibits are summarized as follows:

	1929	1930	1931	1932	1933	6 Mos. 1934
Operating Revenues	$1,010,497	$ 961,432	$ 903,425	$ 813,699	$749,777	$373,980
Operating Expenses	1,276,642	1,296,861	1,102,890	958,646	866,049	433,875
Railway Tax Accruals	64,305	63,159	49,432	35,182	32,269	15,233
Hire of Equipment	159*	19,525	40,894	48,911	42,823	17,022
Rentals	33,913	30,851	30,994	31,343	31,162	15,555
Total Expenses	$1,374,701	$1,410,396	$1,224,210	$1,074,082	$972,303	$481,685
Net Operating Results	$364,204*	$448,964*	$320,785*	$260,383*	$222,526*	$107,705*

* = Red Figures or Loss

Operating expenses charged to many of the accounts making up these statements were incurred by reason of the joint use of certain facilities by interurban and main line service. For this reason it was necessary to allocate the charges in these accounts by means of various prorations.

In its Exhibit No. 10, applicant showed the estimated amount of revenue that would be derived from the sale of commutation books, round-trip and single-trip tickets through the application of fares as shown in Exhibit "A," applied to the 1933 traffic. No allowance was made for any diminution in traffic due to the increase in fares, applicant's contention being that little or no decrease in traffic would occur as a result of an increase in fare.

Comparable statements of operating results of applicant's interurban system for the year 1933 were introduced as exhibits by protestants and by the Transportation Division of the Commission, these exhibits being Nos. 28 and 18, respectively. A comparison, in summary form, follows:

OPERATING RESULTS FOR YEAR ENDING DEC. 31, 1933

	Applicant Ex. No. 1	Protestants' Ex. No. 28	Commission Ex. No. 18
Operating Revenues	$749,777	$753,705	$748,964
Operating Expenses	866,049	620,327	825,094
Railway Tax Accruals	32,269	32,269	32,269
Hire of Equipment	42,823	40,163	42,326
Rentals	31,162	22,219	29,996
Total Expense	$972,303	$714,978	$929,685
Net Operating Result	$222,526*	$ 38,707	$180,721*

* - Red Figures or Loss

The widely divergent results, ranging from a net loss of $222,526 to a net revenue of $38,707, are due, primarily, to the use of different methods of allocating operating expense between interurban and steam service. Certain expenses could be directly located and charged 100 per cent against interurban service. Following is a brief discussion of the various methods employed in the allocation of the major joint items of expense between main line and interurban operations.

A summation of charges to accounts dealing with the expense of operating boats and other expenses incident thereto amounts to $438,184. In allocating this water transfer expense, applicant used a "passenger use basis" which is based solely on the respective number of passengers carried by the boats. During 1933 there were 4,030,727 interurban and 200,616 main line passengers carried, or 95.3 per cent interurban and 4.7 per cent main line, which percentages were used by applicant in allocating water transfer expense. On the other hand, the Commission engineers made a study of allocation of boat expense on a "weight use basis," by considering all passengers, mail, express, L.C.L. freight and baggage transported on the boats. The weights of these various items, both for main line and interurban operations, were reduced to equivalent number of passengers on the basis of 150 pounds per passenger. The summation of these equivalent passengers to those actually carried gave 4,105,796 interurban and 453,685 main line, a ratio of 90.05 per cent interurban and 9.95 per cent main line. Based on this ratio, the Commission engineers, in Exhibit No. 18, used 90 per cent interurban and 10 per cent main line in allocating water transfer expense. Also, a study was made by the Commission engineers to determine the cost of handling all of applicant's main line boat business via Southern Pacific Golden Gate Ferries operation. If it is assumed that the maximum charge to main line operation for boat expense is the equivalent expense of routing its business, including interurban, mail and express via the Southern Pacific Golden Gate Ferries, the result would be approximately 15 per cent of the present boat expense. Protestants allocated the boat expense 66-2/3 per cent to the interurban and 33-1/3 per cent to the main line, predicated on the theory that if there were no interurban, one boat would be necessary to handle the main line business.

Superintendence, Accounts 201, 301 and 371, showed considerable difference in results. The charges shown in Applicant's Exhibit No. 1 and Commission's Exhibit No. 18 differ only slightly, but protestants' Exhibit No. 28 differs widely, as follows:

Acct. No.	Description	Applicant	Protestants	Commission
201	Supt. Maintenance of Way and Structures	$ 6,447.41	$1,692.45	$ 6,420.25
301	" Maintenance of Equip.	5,019.35	527.00	4,862.22
371	" Transportation	15,258.70	1,253.90	14,856.97

System charges to these three accounts, 201, 301 and 371, were $57,371, $17,619 and $41,734, respectively, and these charges were shown by company records to be made up of $23,522, $7,079 and $16,656 charged to freight operation, and $33,849, $10,540 and $25,078 charged to passenger operation, respectively.

Superintendence account charges represent a portion of the total charges to the accounts in the group which the particular superintendence account governs. For example, Account 201, Superintendence Maintenance of Way and Structures, is charged with all expenditures properly assignable to the superintendence of all expense incurred in the maintaining of roadway and structures. The company allocated the charges to these three accounts between interurban and main line in the ratio that the charges to the accounts in the three groups, Maintenance of Way and Structures, Maintenance of Equipment, and Transportation, previously allocated to the interurban, bore to the corresponding system charges. This method was also used by the Commission engineers, the minor discrepancies being due to a difference in the base figure caused by previous differences in allocation. Protestants used the theory that Superintendence was a function of miles of line operated, regardless of train operation, and should be so prorated. Under this theory, protestants allocated 5 per cent of the system charges (passenger portion), to the interurban, based on a main line mileage of 380.44 miles, and an interurban mileage of 20.63 miles.

Traffic, Accounts 351 to 359 inclusive, showed a considerable diversity in the three exhibits. Applicant's Exhibit No. 1 showed charges to these accounts of $26,721, Protestants' Exhibit No. 28 showed charges of $1,904 and Commission Engineers' Exhibit No. 18 showed charges of $15,123.

Applicant dealt with these accounts as a group, allocating to the interurban the passenger proportion of the system charges on the basis that the interurban passenger revenue, Accounts 102 and 114, bore to the system passenger revenue, Accounts 102 and 114. Expense incurred which is chargeable to these accounts is incurred in the producing of revenue.

Commission engineers made an analysis of each of the accounts, definitely locating certain charges, as in the case of Account 353, Asvertising, to the interurban. Account 352, Outside Agencies, was prorated on the basis of the number of tickets sold, 10 per cent interurban and 90 per cent main line. The revenue basis was used in the other accounts. Protestants again used the 5 per cent interurban and 95 per cent main line prorate based on mileage. The 5 per cent was applied to $38,099, the system charges, passengers.

General, Accounts 451 to 460 inclusive, contain all charges for expense incurred of a general character. Charges to these accounts, as reported by the company, were $168,130 for the system, divided $100,996 to passengers and $67,134 to freight. Charges to these accounts do not readily lend themselves to a definite location as between interurban and main line. As in the case of Superintendence accounts, there is a definite relation between charges to General and charges to all other accounts. The company prorated the system charges to General on the basis that the total operating charges to the interurban bore to the total operating charges to the system, the resulting amount for the ten accounts being $53,772. The Commission engineers used the same method, but with a smaller base, the result being $51,231. Protestants again invoked the mileage prorate used in Traffic and Superintendence, arriving at a total of $5,049.

Company records showed $32,219 charged to Account 317, Passenger Train Cars - Repairs, and $10,479 charged to Account 320, Motor Equipment of Cars - Repairs. These direct charges covered repairs to the nineteen steel-body cars and forty-four wood-body cars assigned to interurban service. Protestants reduced these charges to a per unit charge by dividing each amount by sixty-three. They then applied this per unit charge to fifty cars, assumed by them to be the number of cars necessary to operate the service. By this method they obtained $25,570 for Account 317 and $8,317 for Account 320. The same general method was applied to Accounts 318, Passenger Train Cars - Depreciation, and 321, Motor Equipment of Cars - Depreciation. These accounts showed charges of $19,073 and $12,457, respectively. Protestants allowed depreciation on 19 steel-body cars and 31 wood-body cars, obtaining charges of $17,583 and $10,968, respectively.

Turning now to a consideration of the methods employed by the various parties in allocating joint operating expense between main line and interurban service: With respect to water transfer expense, it appears that the maximum charge to main line operation would be the cost to conduct the business via the Southern Pacific Golden Gate Ferries and that a reasonable allocation would be something less than this based primarily on a use basis.

The proration of Superintendence, Accounts 201, 301 and 371, as applied by protestants on a basis of miles of line operated, is not reasonable and is not supported by the record. For example, protestants' witness, who presented the estimates in operating expense, testified that in the item of Maintenance of Equipment a proration between main line and interurban operation on a track mile basis was proper, regardless of the relative amount of train operation. Obviously, the Commission could not accept such a theory as such expense is practically in proportion to the train operation with due regard to type of equipment operated.

The allocations used in the proration of Traffic expense can be questioned in each instance. The basis used by applicant admittedly resulted in too high a figure. There appears to be no relation between expenses incurred for advertising, soliciting and securing traffic, and the miles of track operated. The proration of this expense on a mileage basis by protestants, resulted in a lower figure than the located charges, exclusive of Superintendence, as found by the Commission engineers. This indicates the incorrectness of the theory. The Commission engineers allocated $12,829 to Account 351, Superintendence, which appears to be excessive. Had the relation that the located interurban charges, $2,293 to the system charges, $16,891, been applied to the total assigned passenger charges to Account 351, $18,459, a charge of $2,205 would have resulted, which appears to be a reasonable allowance for this charge.

Protestants' method of handling accounts dealing with repairs and depreciation of cars and motor equipment of cars, appears more or less arbitrary. It is possible that the 1933 traffic could have been handled with less than the 63 cars assigned to the service, but the fact remains that these cars have all been used in this service in the past few years and are now equipped and ready to meet any traffic demand that might arise. It therefore seems proper to allow repairs and depreciation as charged.

All evidence and testimony shows that under any fair and equitable allocation of operating expenses, the annual costs of operation exceed the revenue derived by a sum in excess of $130,000, with unavoidable additional expense for the current year. Furthermore, the present population of Marin County does not appear to indicate that there will be any immediate increase in commutation and casual-rider traffic sufficient under present fares to offer substantial relief.

With respect to the question of what effect, if any, an increase in fares would have on the volume of traffic, the company contends that there would be practically no diminution in travel even with an increase in commute fares of 66-2/3 per cent. On the other hand, the Commission engineers introduced estimates showing that a lesser amount of increase in fare would yield applicant a greater return than would be the case if the proposed increase were applied. Exhibit 23, an estimate of commutation travel and revenue, set up the estimated revenue to be derived under these bases, viz., a 20 per cent, a 40 per cent and a 66-2/3 per cent increase in commutation fares, taking into consideration the estimated deflection of and decrease in traffic. This exhibit showed estimated increases in revenue of $42,774, $42,575 and $40,537 with 20 per cent, 40 per cent and 66-2/3 per cent fare increases, respectively.

Protestants contend that applicant's revenues have suffered as a result of competition offered by subsidiary companies of Southern Pacific Company, of which applicant is one, and therefore applicant should not be granted an increase in fares as it has suffered losses due to competition by associated companies.

The Commission must test applicant's operating conditions as found from this record and it could not properly require this applicant to operate at a loss even though some other subsidiary company of the Southern Pacific Company, operating to some extent in competition with applicant, might be conducting its business at a profit. With respect to the contention of protestants that applicant's plan to increase fares at all points served in Marin County except Sausalito is discriminatory as between Sausalito and other points, a consideration of the record in this proceeding justifies the conclusion that protestants have failed to show that applicant's plan would result in undue discrimination. It is apparent that if applicant increased its fares between San Francisco and Sausalito above those of its competitor, Southern Pacific Golden Gate Ferries, Ltd., which are now practically the same, there would be a material diversion of traffic from applicant's line, which would doubtless more than offset any increase in revenue that would obtain by applying an increased fare to the remaining travel between these points. It should be pointed out, however, that were an increase in fares between Sausalito and San Francisco authorized, it would not have the effect of lowering the increases between other points in Marin County served by applicant, due to the fact that applicant's earnings would still be less than what it is legally entitled to receive.

The matter of figuring a spread of rates for this carrier is a difficult problem as limits are very definitely fixed, beyond which applicant cannot go. This applies in the case of an increase in one-way and round-trip fares as well as an increase in commute fares. It is apparent that any substantial increase in the one-way and round-trip fares would result in a material deflection of traffic to other means of transportation.

There is nothing in the record to show that any substantial saving in operating expense could be effected without seriously impairing the service, in fact the testimony shows that the service has been cut to a minimum and with further decrease in service, the operating savings would be more than offset by the resultant effect of decrease in travel.

In summing up the evidence in this proceeding, due consideration has been given to the testimony of witnesses dealing with the adverse effect an increase in fares would have on the district, both with respect to business and residents. It is always an unpleasant task to authorize increases in fares, but when we find a case such as this where the utility is not making actual costs of operation, there is but one course left open for the Commission and that is to grant an increase in fares, although there is no way of accurately determining the results that will obtain from such increase. This carrier has a legal right to expect that it be given an opportunity to try out a higher rate of fare and if it were not for the fact that this record indicates that a lesser increase than that sought would produce better results, the carrier would have some claim to experiment with a rather high increase in fares, limited, however, to what the service is reasonably worth and what the traffic could bear, as it is not proper to require a utility to provide service to the public at less than actual cost of operation. There is, however, unquestionably a level above which fares cannot be increased with any reasonable expectation that the result will be a further increase in revenue. Any increase above this level may well have far-reaching consequences detrimental to all parties in interest.

The record shows that applicant has but two fare structures, the cash one-way and round-trip fare, and the monthly commutation, and that no other form of fare has been tried. It seems that it would be advantageous if applicant offered some other form of reduced fare in the nature of a pass or weekly commutation. This has been shown to have increased travel and revenue in certain cases where tried by other carriers and it is suggested that applicant give it serious consideration on at least a trial basis.

The following form of order is recommended.

O R D E R

The application of Northwestern Pacific Railroad Company for an increase in its fares being before this Commission, public hearings having been held, the Commission being apprised of the facts, and the matter being under submission and ready for decision,

It is Hereby Found as a Fact that the existing rates of fare of Northwestern Pacific Railroad Company on its interurban system operating between San Francisco and points in Marin County are inadequate and do not produce revenue sufficient to reimburse the company for the actual costs of operation and that said rates of fare should be increased.

IT IS HEREBY ORDERED that applicant be and it is hereby authorized to establish, in accordance with the Commission's rules, within sixty (60) days from the date of this order upon not less than ten (10) days' notice to the Commission and the public, rates of fare between points on its interurban system in conformity with the provisions shown in Exhibit "A" attached hereto and made a part hereof.

The Commission reserves the right to make such further orders in this proceeding as to it may seem right and proper and to revoke this authority if, in its judgment, public convenience and necessity demand such action.

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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 17th day of June, 1935.

Leon O. Whitsell

M. B. Harris

Commissioners

Commissioner Devlin, being disqualified, did not participate in this decision.

EXHIBIT "A"

(1) One-way and round trip fares may be increased as shown in Exhibit "A" (Sheets 1 & 2) attached to the application filed on July 25, 1934.

(2) One-way, round trip and monthly commutation fares between San Francisco and Sausalito shall remain as at present.

(3) Monthly commutation fares between other points may be established on the following basis:

INDIVIDUAL MONTHLY COMMUTE FARES

Between San Francisco and Almonte	$5.60
Between San Francisco and Mill Valley	6.40
Between San Francisco and Alto	6.40
Between San Francisco and Escalle	7.20
Between San Francisco and Manor	8.00
Between San Francisco and San Rafael	8.00
Between Sausalito and Manor	4.80
Between Sausalito and San Rafael	4.80
Between Tiburon and Manor	6.20
Between Tiburon and San Rafael	6.20
Between Sausalito and Tiburon	4.00

Commutation fares between points not specifically named may be increased so as to bring them into conformity with the fares shown above, but in no case shall they be increased by more than twenty (20) per cent, excepting where necessary to make the fare end in the nearest ten (10) cents.