

Decision No. 29371

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of SAN DIEGO ELECTRIC RAILWAY COMPANY, a corporation, for permission to abandon the existing rail service on the La Playa Line (Route No. 13) in the City of San Diego and removal of certain portions of that track; substitute in lieu thereof, automobile bus service for the abandoned portion of that route and rerouting a portion along Pacific Highway into new territory and for issuance of certificate of public convenience and necessity for the proposed bus operation.

Application No. 20895

**ORIGINAL**

S. E. Mason and Dale Harlan, for applicant.  
 D. L. Ault, City Attorney for the City of San Diego, proponent.  
 Lieutenant W. B. Howett for 11th Naval District, interested party.

BY THE COMMISSION:

O P I N I O N

In this application San Diego Electric Railway Company seeks permission to abandon its La Playa street car line (Route No. 13), to remove the tracks from a portion of said route and inaugurate in lieu thereof, a motor coach service, all within the City of San Diego, County of San Diego, California.

A public hearing was held in this matter before Examiner Hall in San Diego on Tuesday, December 8th, at which time the matter was submitted.

Applicant operates as a part of its electric street railway system in San Diego, the La Playa Line, Route No. 13, extending from the business district of the City along Kettner Boulevard,

Hancock Street, Barnett Avenue, Lytton Street and Rosecrans Street to the United States Military Reservation. That portion of the line from the business district of San Diego along Kettner Boulevard, Hancock Street and certain private rights of way to a point opposite the United States Marine Corps Base is also operated over by applicant's Ocean Beach Line and La Jolla Line. That portion of said La Playa line beyond the junction point is a single track located on one-half of the street so as to permit future double track construction without re-locating the original track. This results in operation of street cars in one direction on the wrong side of the street and constitutes a traffic menace.

*Item* Only a portion of Rosecrans Street is paved, and the United States Navy, <sup>which</sup> ~~who~~ owns much of the adjacent property, is desirous of paving certain portions of the street now occupied by applicant's track. Furthermore, the City of San Diego is arranging for funds to complete the paving of Rosecrans Street to its full width. In the event that street car service was continued, it would be necessary to reconstruct the present track, to construct a second track and additional overhead span wires at an estimated cost of approximately \$98,500.

Exhibit "D", attached to the application, shows that Route 13 is operating at an annual loss of approximately \$1200. Applicant contends that the operating results of this street car line do not warrant the expenditure required for its rehabilitation. It is proposed to inaugurate in lieu thereof, a motor coach service from the business district of the City to the United States Military Reservation, upon and along a route as hereinafter described. The main difference between the street car route and the proposed motor coach route is to move the service

from Kettner Boulevard to Pacific Boulevard in entering or leaving the business district of the City. This change in route is proposed on account of the large number of industries located along Pacific Boulevard. The headway of the present street car line is basically 22 1/2 minutes, whereas the basic headway of the proposed bus line will be 20 minutes, thereby increasing the service about 10%. Applicant estimates that the new bus route will stimulate traffic about 10% over the traffic now enjoyed by the street car line; that the cost of operation will be materially less than the cost of operating the present street car line and will result in a profit of approximately \$7000.

The City of San Diego in Resolution No. 65191, dated November 24, 1936, approves the substitution of service as outlined above. Furthermore, the San Diego Chamber of Commerce on November 19, 1936 also adopted a resolution favoring the granting of this application.

The Commandant's office of the Eleventh Naval District, San Diego, the Office of the Commanding General Marine Corps Base, San Diego, and the United States Naval Training Station at San Diego have signified in writing that they are agreeable to the granting of this application. No protest was entered at the hearing against the granting of this application and it appears from the record that public convenience and necessity require a substitution of service as prayed for in this application and that the application should be granted.

San Diego Electric Railway Company is 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

A public hearing having been held and the matter being duly submitted,

IT IS HEREBY ORDERED that San Diego Electric Railway Company be and it is hereby authorized to abandon service upon and along its La Playa Line (Route 13) described as follows:

Operating between Broadway and the United States Military Reservation along Kettner Boulevard, Hancock Street, Barnett Avenue, Lytton Street and Rosecrans Street, within the City of San Diego, County of San Diego, State of California,

subject, however, to the following conditions:

- (1) The abandonment of this street car service shall be effective concurrently with the inauguration of motor coach service as authorized hereinafter.
- (2) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the abandonment of the facilities authorized herein and of its compliance with the conditions hereof.
- (3) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof, unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED that San Diego Electric Railway Company be and it is hereby authorized to abandon and remove its tracks on Rosecrans Street between Lytton Street and the United States Military Reservation, City of San Diego, County of San Diego, California, subject to the following conditions:

- (1) Applicant shall, within thirty days thereafter, notify the Commission, in writing, of the removal of the track facilities authorized herein and of its compliance with the conditions hereof.
- (2) The authorization herein granted shall lapse and become void if not exercised within one year from the date hereof, unless further time is granted by subsequent order.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by San Diego Electric Railway Company, a corporation, of a motor coach passenger service for the transportation of passengers between and serving the following named termini and all intermediate points over the following described route:

Beginning at the intersection of Third Avenue and Broadway, easterly on Broadway to Fourth Avenue, southerly on Fourth Avenue to E Street, westerly on E Street to Third Avenue, northerly on Third Avenue to Broadway, westerly on Broadway to Pacific Highway, northerly along Pacific Highway to Barnett Avenue, southwesterly along Barnett Avenue to Lytton Street, northwesterly along Lytton Street to Rosecrans Street, southwestly along Rosecrans Street to the United States Military Reservation; and return along the same route to the point of beginning.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to San Diego Electric Railway Company, subject to the following conditions:

- (1) Applicant shall file a written acceptance of the certificate herein granted, within a period not to exceed fifteen (15) days from the date hereof.
- (2) Applicant shall commence the motor coach service herein authorized concurrently with the abandonment of its La Playa Street car line as hereinbefore authorized.
- (3) Applicant shall, 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, supplement its Local Passenger Tariff No. 7, C. R. C.No. 62, to provide that fares

shown therein shall apply in connection with motor coach service as herein authorized.

- (4) Applicant shall file in duplicate and make effective 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 Commission.
- (5) Applicant is authorized to turn its motor vehicles at termini, either at the intersection of the streets or by operating around a block contiguous to such intersection in either direction, and to carry passengers as traffic regulations of the municipality may require.
- (6) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.
- (7) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Commission.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of December, 1936.

M B Harris

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Walter A. Ware

Francis R. Kelly  
Commissioners.