

Decision No. 29889

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MARKET STREET RAILWAY COMPANY, for
an Order of the Railroad Commission
of the State of California authoriz-
ing emergency increases in certain
fares.

Application No. 21115.

WM. M. ABBOTT and MAX THELEN, for Market Street
Railway Company, Applicant.

JOHN J. O'TOOLE, City Attorney, and DION R. HOLM,
Deputy City Attorney, for the City and
County of San Francisco, Protestant.

FRANK S. RICHARDS and THOS. K. MCCARTHY, for
East Bay Transit Company and Key System,
Interested Parties.

O P I N I O N

WARE, COMMISSIONER:

In this proceeding the Market Street Railway Company seeks authority to increase fares on its local transportation system serving the City and County of San Francisco, as well as on a line extending between Leipsic Junction, in the southern part of the City of San Francisco, and its terminus in the City of South San Francisco. This application, however, does not request permission to make any changes in fares on applicant's interurban line between San Francisco and San Mateo.

Public hearings were conducted in this proceeding at San Francisco on April 22nd and 28th, 1937, and on the latter date the matter was taken under submission and is now ready for decision.

At this time the fare structure on applicant's local lines is as follows:

Cash fares	5 cents
School Children	2½ "
Full Fare Tickets	5 "
Sunday and Holiday Pass	20 "

In this proceeding applicant proposes a new fare structure on local lines, as follows:

Cash fares.	7 cents
Tokens (4 for 25¢).	6½ "
School Children (16 for 50¢).	3-1/8 "
Sunday and Holiday Pass	25 "

with the same transfer privileges as are now offered.

In seeking this increase in fares, applicant alleges that its net revenue must be increased to meet increased taxes and labor costs, although applicant is not at this time seeking a fair return on its investment. Max Thelan, of counsel for applicant, in his opening statement, enunciated the issue involved as follows:

"This is an application for permission to charge specified increased fares for the purpose of enabling Market Street Railway Company to pay a part of increased operating expenses which we must necessarily pay.

"These increased operating expenses are the result of increased wages which we must necessarily pay to our employees, and of improved hours and working conditions, as agreed to between the Company and the Union in an agreement recently entered into. The remaining portion of the funds which we are asking for by this increase in fares will be used to meet increased expenses, increased taxes, which we must incur in connection with our employees under the Federal and the State Social Security laws. Now, that is all there is in this application. This is not a valuation case. It is not a case in which we are asking for a fair return on our investment, or on our property devoted to the public service, but, as I stated, it is simply and solely a case in which we are asking an increase in fares sufficient to enable us to pay a portion of these increased operating expenses, which we must necessarily pay in connection with our employees."

Exhibit "E" attached to the application shows the operating results of the Market Street Railway for the period 1932 to 1936, inclusive, from which is abstracted the tabulation shown on the following page.

MARKET STREET RAILWAY COMPANY
EARNING STATEMENT

I T E M	Y E A R				
	1932	1933	1934	1935	1936
<u>OPERATING INCOME</u>					
Railway Operating Revenues	\$7,805,507.44	\$7,407,416.44	\$7,272,860.76	\$7,323,954.99	\$7,508,353.74
Railway Operating Expenses	6,535,294.33	5,939,748.97	5,941,868.62	5,902,445.79	5,918,366.78
Net Revenue - Railway Operations	\$1,270,213.11	\$1,467,667.47	\$1,330,992.14	\$1,421,509.20	\$1,589,986.96
Taxes Assignable to Operation	399,000.00	382,000.00	416,000.00	328,009.34	306,500.00
Operating Income	\$ 871,213.11	\$1,085,667.47	\$ 914,992.14	\$1,093,499.86	\$1,283,486.96
<u>NON-OPERATING INCOME</u>					
	15,985.54	14,389.86	13,507.16	11,901.66	10,242.35
Gross Income - Depreciation Expense Excluded	\$ 887,198.65	\$1,100,057.33	\$ 928,499.30	\$1,105,401.52	\$1,293,729.31
<u>DEPRECIATION APPROPRIATION</u>					
	262,530.70	498,271.23	361,467.14	500,000.00	500,000.00
Gross Income - Depreciation Expense Included	\$ 624,667.95	\$ 601,786.10	\$ 567,032.16	\$ 605,401.52	\$ 793,729.31
<u>DEDUCTIONS FROM GROSS INCOME</u>					
Interest on Funded Debt	526,808.76	482,732.16	453,073.66	423,456.08	398,366.77
Interest on Unfunded Debt	46,070.93	74,817.17	72,095.67	75,624.53	84,097.74
Other Deductions	43,417.48	39,221.56	36,561.07	31,633.52	28,825.70
Total Deductions from Gross Income	\$ 616,297.17	\$ 596,770.89	\$ 561,730.30	\$ 530,714.13	\$ 511,290.21
Net Income - Depreciation Expense Excluded	\$ 270,901.48	\$ 503,286.44	\$ 366,769.00	\$ 574,687.39	\$ 782,439.10
Net Income - Depreciation Expense Included	\$ 8,370.78	\$ 5,015.21	\$ 5,301.86	\$ 74,687.39	\$ 282,439.10

Exhibit "B" attached to the application is a copy of an agreement entered into between applicant and the Amalgamated Association of Street Electric Railway & Motor Coach Employees of America, Division 1004. Although this agreement is dated March 23, 1937, the increased rates of pay became effective March 14, 1937, the agreement is to remain in effect until March 31, 1939, and thereafter until changed on 30 days' notice by either party.

This agreement provides for an increase in the rates of pay to the various classes of employees, ranging from 2½ to 7½ cents per hour for the first year, and from 5 to 10 cents per hour for the second year. The majority of the men affected are platform men whose rates of pay are increased from 5 to 10 cents per hour over the two-year period.

Approximately one million dollars will be expended in the next two years by applicant for increased wages and new social security taxes affecting labor. Of this amount, labor will receive in increased wages over 3/4 of a million dollars, while new social security taxes will amount to approximately 1/4 of a million dollars.

The following table succinctly itemizes these increased operating costs:

ESTIMATED INCREASE IN OPERATING COSTS
DUE TO INCREASED LABOR RATES AND SOCIAL SECURITY TAXES

Item	Year Ending	
	March 14, 1938	March 14, 1939
<u>LABOR:</u>		
Street Car and Bus Operators	\$210,891.90	\$307,201.80
Shop, Line Dept., Track Dept., and Miscellaneous Labor	116,200.12	122,522.32
Total Labor	\$327,092.02	\$429,724.12
<u>SOCIAL SECURITY TAXES:</u>		
State	\$ 50,932.99	85,145.25
Federal	46,845.63	51,576.00
Total Taxes	\$ 97,778.62	\$136,721.25
Total Increased Operating Cost	\$424,870.64	\$566,445.37

Exhibit 6 shows applicant's estimate of the change in revenue on the various lines following the establishment of the proposed increased fares. This exhibit sets forth that applicant estimates the proposed fares will increase the gross revenue \$350,610.00 during the first year's operation. It may be noted, however, that this amount will not equal the estimated increased operating costs set forth above. In offering this exhibit, which reflects the estimated diversion of traffic in terms of revenue, applicant's witness testified that it was based upon their best judgment and only experience could determine what the actual change in revenue would amount to.

The record shows that during the past year applicant adopted a plan of converting its two-men car operation into one-man car operation on a portion of the system, and by its Exhibit 9 it shows that this change has provided a saving in the operating expenses of \$84,751.00 for the year ending March 31, 1937.

In addition to economies effected by one-man car operation, a further reduction in operating costs was realized by reason of discontinuing the payment of management fees to the former Byllesby Engineering and Management Corporation, (1) which payments amounted to as high as \$175,000.00 during 1931, and about \$94,000.00 during 1935. Such payments were discontinued by October 1, 1935.

With respect to service on applicant's line, one of its operating officials testified that the company experiences considerable difficulty in maintaining schedules on the various lines as a result of interference by automobiles and trucks. Many instances were cited where cars were held up due to both single and double parking, as well as interference by trucks in loading and unloading at the curbside. This witness also testified that considerable difficulty had been experienced in maintaining schedules following the establishment of one-man car operation, due

(1) Now Standard Gas & Electric Company.

to the fact that it was necessary to train the operators of the cars and familiarize the public with this new plan of operation. It is alleged that this situation is now materially improved, due to the fact that the one-man plan of operation has now been perfected to the point where better service can be offered the public at a lesser cost to the carrier. It is further alleged that the same schedules are now maintained with one-man operation as were employed under two-man operation.

At the hearing, applicant offered as an amendment to its original application a revision of the proposed rate structure to the effect that the present 5-cent fare be retained on lines No. 8 (Market Street line) and No. 19 (Polk Street line), both of which are in direct competition for their entire length with lines of the Municipal street car system.

While operating these two lines on a 5-cent fare might return applicant a somewhat greater net revenue, this plan has objectionable features which are of sufficient magnitude to condemn it. For example, line No. 8 operates along Market Street on the same rails used by other lines of this carrier. It is obvious that for applicant to have different fares on the same line, carrying passengers to the same points along Market Street, would be confusing and objectionable to the public. Applicant suggested that this line might be operated on a 5-cent fare without transfer to other lines. To have one line of the system not issuing transfers to other intersecting lines, contrary to the general practice of the carrier, would be additionally perplexing to the public.

With respect to line No. 19 operating on a 5-cent fare and issuing transfers to other lines of the system, it is apparent that such practice would present a serious objection in that a

considerable amount of confusion would result thereby. We therefore disapprove this proposed fare structure.

The City of San Francisco, through its attorney, entered an appearance in this proceeding as a protestant, and cross-examined applicant's witnesses, particularly with respect to the rate of interest paid on outstanding bonds, one-man car operation, and diversion of traffic. The City Attorney attacked the Market Street Railway's practice of paying 7 per cent interest on its outstanding bonds which are in excess of \$5,000,000. No plan was suggested, however, whereby the company's outstanding bonds could be refinanced at a lesser interest rate, and moreover, the record shows that applicant has been unsuccessful in its past efforts to effectuate such refinancing.

The record shows that the applicant has for a number of years past failed to earn a full return on its investment, and there appears to be no relief in sight for the immediate future with operations under the present fare structure.⁽²⁾ Furthermore,

(2) Paragraph X, Application No. 21115:

"That during the last five (5) years the maximum return on said value of \$24,000,000.00, after deducting operating, depreciation and maintenance expenses, has been not to exceed 3.31 per cent in any year, and the average return during the said five (5) years has been considerably less; that applicant has never paid any dividend on its common stock; that it has paid no dividend on its preferred stock subsequent to the year 1921; that it has paid no dividend on its prior preferred stock for any period subsequent to the year 1923; and that no class of applicant's stockholders has received any dividend whatever during the last thirteen (13) years."

this carrier is now confronted with a substantial increase in its operating expenses which cannot be met with the revenues it now receives or can reasonably expect to receive in the immediate future. Applicant's estimates, however, are open to some criticism in a number of respects, to the effect that no recognition has been given to the upward trend of travel; that an unwarranted high percentage of token use has been assumed; and that no consideration has been given to the possibility of reducing operating expenses as a result of fewer cars being used after the effect of diversion has been realized, which reduction in expense will also reflect in estimates of future labor expenses and taxes. The application of these changes in the estimate, however, would not be sufficient to meet the increased costs of operation.

It is clear from this record that operation under any reasonable fare structure will not in the near future yield a revenue sufficient to provide a full return on any reasonable rate base of applicant's property so long as the competing Municipal lines are operated on a 5-cent fare. For that reason this record does not deal with the matter of establishing a rate base for this property. In fact, the only reference to valuation in this record is that which is contained in the application to the effect that a valuation made by the late M. M. O'Shaughnessy, former City Engineer of San Francisco, shows that the present fair value of applicant's property is at least \$24,000,000.00.⁽³⁾

(3) Paragraph IX, Application No. 21115:

"That in accordance with the provisions of Ordinance No. 8125 (New Series) of the Board of Supervisors of the City and County of San Francisco, and under the directions of said Board of Supervisors, a Report entitled Report on the Street Railway Transportation Requirements of San Francisco was heretofore prepared by Mr. M. M. O'Shaughnessy, City Engineer of the City and County of San Francisco, and was filed with said Board of Supervisors in the month of May, 1929; that Chief Engineer O'Shaughnessy reported in said Report that the reproduction costs of the properties of Market Street Railway

(Cont'd on page 9)

It has been the practice of this carrier for the past two years to set aside \$500,000 a year as a depreciation allowance for the entire property. This amount is not supported by detailed studies, but it appears from this record, which the Commission's investigation has confirmed, that a complete study of depreciation would not make sufficient difference in the matter now before us to change the conclusions of this Order.

It is apparent from this record that the only means of meeting the increased operating expenses is through an increase in fares. As to just what plan this increased fare structure should follow, is a matter of prime importance to both applicant and the public; the objective is to prescribe a fare which will attract the greatest volume of traffic and at the same time provide sufficient revenue to meet the costs of performing the service. If applicant's fare structure is adopted, and its estimates of diversion are correct, it means that applicant's remaining patrons must pay in increased fares approximately \$1,350,000 in order that applicant may realize an increase in its gross earnings of approximately \$350,000. We recognize that applicant is entitled to increased revenues; but it is neither reasonable nor in the interest of the public or of the carrier for applicant's passengers to be penalized \$1,000,000 annually in order that applicant may realize \$350,000 increased gross revenue.

(3) Cont'd

Company as estimated by him as of June 30, 1928, was \$45,859,006, and that the reproduction cost of said properties less the accrued depreciation, as estimated by him as of said date, was \$28,602,831; that the additions and betterments to the property less retirements subsequent to June 30, 1928, have been \$2,616,772.87, and retirements from June 30, 1928, to February 28, 1937, have been \$4,417,724.40; and that the present fair value of the property of applicant used and useful in its said service to the public is at least the sum of \$24,000,000.00."

Local street transportation in San Francisco is different in a number of respects from that of any other city in the State, particularly as to the riding habit, average length of ride, and competition which involves three local street rail systems in addition to jitney busses.

It is apparent that any increase in fares on applicant's lines will result in some diversion of traffic to the lines of its competitors. The amount of such diversion, however, will be more or less in proportion to the volume of increase in fares. It is obvious that such diversion of traffic means that the remaining riders must not only make up for this loss, but also contribute to an added gross revenue if this carrier is to earn its increased operating costs, and also must necessarily result in some inconvenience to the riders who seek other means of transportation.

In reviewing this record, the Commission is not convinced that applicant's proposed fare structure is one which best meets the situation, in fact the President of the company has stated that no consideration has been given to any other form of fare (Tr. p. 52); that the estimates were of necessity only a guess; and that experience alone could tell what results would obtain if the proposed fare structure were put into effect.

The Commission has given considerable thought to the matter of selecting a fare structure which will result in the least disturbance of traffic and at the same time provide the needed revenue in the most equitable manner. In our search for such a fare structure, we have given consideration to applicant's plan, and have likewise given consideration to a number of forms of fare, such as a straight 6-cent cash fare, zone fares, and the existing 5-cent fare in combination with a 2-cent charge for a transfer.

The Commission has concluded that the existing 5-cent fare, in combination with a 2-cent charge for a transfer, affords the greatest promise for the most favorable results to both the traveling public and the applicant carrier. Such a plan can be adopted upon an experimental basis and if it develops that this fare is not fulfilling the requirements, the entire matter can be reviewed and a record developed which will place the Commission in a better position to select a form of fare best suited to meet the needs of the public and provide a revenue sufficient to meet the cost of performing the service.

The Commission believes that if applicant retains its existing 5-cent cash fare and establishes a charge of two cents for a transfer, its gross earnings will be increased to an amount in excess of that which it estimates it will obtain from the fare structure proposed in this application. The adoption of such a course will at once spare almost 60 per cent of applicant's patrons from any increased fare whatsoever, and will save all of applicant's patrons increased annual transportation costs aggregating \$1,000,000.

The following form of Order is recommended.

O R D E R

Market Street Railway Company, having made application for an order granting authority to increase the rate of fare upon its street car lines operating in the City and County of San Francisco and also in the City of South San Francisco, San Mateo County; public hearings having been held; and the Commission being apprised of the facts,

IT IS HEREBY ORDERED that Market Street Railway Company be and it is hereby authorized to file with the Commission, and put into effect within thirty days from the effective date of this Order, upon not less than five (5) days' notice to the Commission and the general public, the following schedule of fares:

Cash Fares, without transfer 5 cents
In combination with transfer 7 cents

Full Fare Tickets, without transfer 5 cents
In combination with transfer 7 cents

School Children 20 rides for 50 cents
With free transfers to other lines of the
company for continuous travel in the same
general direction.

Sunday and Holiday Pass. 25 cents

This fare structure to be in lieu of and supersede the fare structure now in effect.

IT IS HEREBY FURTHER ORDERED that the application in all other respects be and the same is hereby denied without prejudice.

The Commission reserves the right to abolish, modify, or change from time to time, by formal order, the rates of fare above prescribed, and to make such further orders as to it may seem right and proper.

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

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 21st day of June, 1937.

[Signature]
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Commissioners.