

Decision No. 27719.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of SAN JOSE RAILROADS

(a) for authority to abandon all its street railway lines in the Cities of San Jose and Santa Clara, and in the County of Santa Clara.

(b) for certificate of public convenience and necessity for the exercise of a resettlement franchise authorizing motor coach service in the City of Santa Clara in substitution for street railway operation which is to be abandoned.

(c) for certificate of public convenience and necessity for the transportation of passengers by motor coach in the Cities of San Jose and Santa Clara and in the County of Santa Clara; and

(d) for authority to execute a supplemental indenture placing said resettlement franchise and the equipment to be provided for use upon certain of the motor coach lines herein described, under the existing mortgage of San Jose and Santa Clara County Railroad Company.

ORIGINAL
Application
No. 21757.

E. J. Foulds, for Applicant
C. B. Goodwin, for City of San Jose
Chas. A. Thompson, for City of Santa Clara
L. E. Hanchett, by Irvin Frasse, for certain bondholders
W. L. Atkinson, for San Jose Real Estate Board
Harry Thompson and A. J. Hart, for West Santa Clara
Development Association.

BY THE COMMISSION:

O P I N I O N

The above-entitled matter deals with a plan of converting the present street car and motor coach local transportation system of the San Jose Railroads into a unified motor coach operation.

A public hearing was conducted in this matter by Examiner Hunter at San Jose, February 26, 1938.

By Decision No. 27719, the San Jose Railroads was authorized to discontinue certain of its street car lines upon establishing

substitute motor coach service. As the system is now operated, over two-thirds of the route miles are included in the rail operations.

In this proceeding, applicant seeks authority to discontinue the operation of these rail lines and for the major portion substitute motor coach service, employing the same fare structure and substantially the same headway as at present. This plan calls for an initial investment of \$112,000 in the purchase of fourteen new busses.

The following tabulation shows the mileage of rail line sought to be abandoned and the bus service to be substituted, divided as to locations:

Location	Rail Lines sought to be abandoned (1)	Proposed Substitute Motor Coach Lines
City of San Jose	7.30 miles	10.52 miles
City of Santa Clara	1.28 "	1.28 "
Unincorporated portion of Santa Clara County	7.17 "	3.60 "
Total	15.75 miles	15.40 miles

Under applicant's plan, the only rail line sought to be abandoned for which there is no substitute motor coach service proposed is the so-called Berryessa Line, which operates in the unincorporated portion of Santa Clara County along King Road and Berryessa Road, a total distance of nearly three miles.

Exhibits Nos. 4 and 5 show the result of traffic check taken on the Berryessa line over a two-month period. The following tabulation is taken from these exhibits:

(1) These lines constitute all the remaining rail lines of the San Jose Railroads.

I t e m	Period Involved	
	Aug. 15th to Sept. 13th, 1937, Incl. (Exhibit No. 5)	Jan. 15th to Feb. 13th, 1938, Incl. (Exhibit No. 4)

Total Revenue for the 30-day period	\$ 76.40	\$ 80.68
Total Passengers carried	777	886
Average Daily Revenue	\$ 2.55	\$ 2.69
Average Daily Passengers	26	29
Car Miles for the 30-day period	2,061	2,061
Average Daily Car Miles	68.7	68.7
Earnings per Car Mile	.037 cents	.0391 cents

The entire revenue from passengers originating on or destined to points on this line has been shown to this line. No portion has been allocated to the city lines.

System Cost of operating a car mile \$.145
 Total Cost of operating line from 1-15-38 to 2-13-38 \$298.84

It is apparent from this record that the traffic on this line is a drain on the remainder of the system.

Both the City of San Jose and the City of Santa Clara have signified their approval of applicant's plan to substitute motor coach service for rail operation, as proposed herein, and as evidenced by Ordinance No. 2606 of the City of San Jose, dated February 7, 1938, (Exhibit No. 3), and Ordinance No. 491 of the City of Santa Clara, dated February 7, 1938, (Exhibit No. 2).

Although notice of this hearing was mailed to the District Attorney of Santa Clara County, no appearance was entered by the County.

It appears that Southern Pacific Company owns all of applicant's outstanding securities, including \$5,000,000 of common stock and \$967,000 of first mortgage 5% bonds, due January 1, 1955, and also all of the outstanding stock, \$5,000,000 par value, of San Jose and

Santa Clara County Railroad Company, a predecessor operator whose properties were acquired by applicant, some time prior to 1912, subject to the lien of that company's bonded indebtedness.

San Jose and Santa Clara County Railroad Company has outstanding \$471,000 of first mortgage 4 $\frac{1}{2}$ % bonds, due April 1, 1946, of which \$201,000 are held by Southern Pacific Company and \$270,000 by the public. The payment of the bonds is secured by a first and refunding mortgage which is a lien on the line of railway, now to be abandoned, running from Santa Clara through San Jose via The Alameda and Santa Clara Avenue to Linda Vista. It is reported that in order to protect the security of the mortgage of San Jose and Santa Clara County Railroad Company, Southern Pacific Company will deposit with the trustee under that mortgage all of the bonds now owned by it of San Jose Railroads and San Jose and Santa Clara County Railroad Company, and San Jose Railroad Company will cause the execution of supplemental mortgages placing under the lien of the mortgage of the predecessor company the re-settlement franchise from the City of Santa Clara, operating rights and equipment.

Applicant has not yet submitted copies of the proposed indentures so that the Commission cannot at this time make its final order in this proceeding. The plan outlined in the application is satisfactory to the Commission and upon the filing of the instruments, in proper form, the Commission will make its supplemental order authorizing their execution. Heretofore, by Decision No. 27774, dated February 25, 1935, the Commission authorized the execution of a supplemental indenture of mortgage, dated as of February 5, 1935, subjecting to the lien of said mortgage of San Jose and Santa Clara County Railroad Company, rights and privileges under the re-settlement franchise granted by the City of San Jose by Ordinance No. 2438 passed by the Council of the City of San Jose on November 13, 1934.

No opposition developed to the granting of this application. On the other hand, representatives of a number of civic organizations and business establishments appeared and urged that it be granted. All parties have urged an early determination of this matter. If the application is to be granted, the City of San Jose desires to proceed immediately with the removal of rails in accordance with an agreement between the City and applicant.

A careful review of this record leads to the conclusion that the application should be granted, as it appears that applicant's proposed plan of operation should provide for the public an equal or superior service at a lesser cost of operation.

San Jose Railroads 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 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

HGM
The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the establishment and operation by applicant, as a passenger stage corporation as defined in Section ²¹⁴225 of the Public Utilities Act, of an automotive passenger stage service for the transportation of passengers in the cities of San Jose and Santa Clara, Santa Clara County, and adjacent territory, and that same be consolidated with the remainder of its operative rights. Said service is described as follows:

1. An extension of the existing Seventeenth Street motor coach route of San Jose Railroads from a point on its existing route at Second and St. John Streets, thence southerly along Second Street to San Fernando Street, thence westerly along San Fernando Street to Delmas Avenue, southerly along Delmas Avenue to San Carlos Street, westerly along San Carlos Street and Stevens Creek Road to Bascome Avenue, terminating at a loop around the block at the northeasterly corner of Bascome Avenue and Stevens Creek Road.
2. Commencing at a loop in the City of Santa Clara around the block bounded by Franklin Street, Jefferson Street, Liberty Street and Lincoln Street; thence along Franklin Street to Grant Street, thence along Grant Street and The Alameda to the easterly city limits of the City of Santa Clara; thence continuing easterly along The Alameda and Santa Clara Street in the City of San Jose to a loop bounded by Santa Clara Street, King Road, Shortridge Avenue and South Thirty-fourth Street, at the easterly city limits of San Jose.
3. A continuation of Route Second, above described, extending along the County road known as Alum Rock Avenue from the easterly city limits of San Jose at King Road to the intersection of Alum Rock Avenue with Miguelito Avenue.
4. Incidental to the foregoing, to terminate its present Willow Glen line (now operated as a through route in connection with said Seventeenth Street line), on a loop around the blocks bounded by Market Street, Santa Clara Street, First Street, and San Carlos Street, in San Jose.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same is hereby granted to San Jose Railroads subject to the following conditions:

- (1) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
- (2) Applicant shall commence the service herein authorized concurrently with the abandonment of street car service hereinafter authorized.
- (3) Rates of fare in volume and effect shall be identical with the rates and rules now in effect on said street car lines hereinafter authorized to be abandoned.
- (4) Applicant 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 days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

- (5) 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 obtained.
- (6) 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 Railroad Commission.
- (7) Applicant is authorized to turn its motor vehicles at termini or intermediate points either in the intersection of the streets or by operating around a block contiguous thereto in either direction and to carry passengers as traffic regulations and the political bodies may require.

IT IS HEREBY FURTHER ORDERED that San Jose Railroads is hereby authorized to abandon all of its existing street rail service in the cities of San Jose and Santa Clara and adjacent territory, Santa Clara County, concurrently with the establishment of automotive stage service as hereinbefore authorized, and to remove tracks and appurtenances thereto, said rail lines being described as follows:

1. Commencing at the intersection of Lincoln and Franklin Streets, Santa Clara; thence along Franklin Street to Grant Street; thence along Grant Street to Bellowy Street; thence along The Alameda to the easterly city limits of Santa Clara; thence continuing along The Alameda and Santa Clara Street in the City of San Jose to King Road; thence along Alum Rock Avenue in the County of Santa Clara to Linda Vista Station near Fleming Avenue.
2. Commencing at the intersection of Second and St. John Streets in the City of San Jose; thence along Second Street to San Fernando Street; thence along San Fernando Street to Delmas Avenue; thence along Delmas Avenue to Park Avenue; thence along Park Avenue to Meridian Road; thence along Meridian Road to Stevens Creek Road; thence in the County of Santa Clara along private right of way adjacent to south side of Stevens Creek Road to Bascom Avenue. Also commencing at the intersection of Meridian Road and West San Carlos Street in the County of Santa Clara; thence easterly along West San Carlos Street to the westerly city limits of San Jose near Lincoln Avenue; thence continuing along West San Carlos Street in the City of San Jose to Josepha Street; thence along Josepha Street to Park Avenue.

3. On King Road in the county from Alum Rock Avenue to Berryessa Road.
4. On private right of way adjacent to the Berryessa Road from King Road to Capitol Avenue, Berryessa. (This track belongs to Southern Pacific Company, which will retain the track as far east as Engineer's Station 76 plus 50 for freight switching purposes);

subject, however, to the following conditions:

- (1) Applicant shall give not less than five (5) days' notice to the public by posting notice in the street cars affected.
- (2) Applicant shall restore the pavement along the line where the tracks are removed, in accordance with the respective franchise requirements or in accordance with an agreed plan entered into between applicant and the public body having jurisdiction over the respective streets or highways.
- (3) Applicant shall, within thirty (30) days thereafter, notify the Commission, in writing, of its compliance with the provisions of this order.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 7th day of March, 1938.

Arthur M. ...
Leon ...
Frank R. ...
Ray ...
...
Commissioners