

Decision No. 20783.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of:

PACIFIC ELECTRIC RAILWAY COMPANY, a corporation,
for an order granting permission to increase and
adjust passenger rates and fares for the transporta-
tion of persons between points in the State of
California:

MOTOR TRANSIT COMPANY, a corporation, for an
order granting permission to increase and adjust
passenger rates and fares for the transportation
of persons between points in the State of Cali-
fornia:

LOS ANGELES MOTOR COACH COMPANY for an order
granting permission to increase and adjust certain
passenger rates and fares for the transportation of
persons between points in the State of California,
to conform to any increases that may be granted to
Pacific Electric Railway Company, so that the paral-
lel rates affected may be equalized and in harmony.

Application
No. 21656.

FRANK KARR and C. W. CORNELL, for Applicants.

GIBSON, DUNN & CRUTCHER, by WOODWARD M. TAYLOR, for Los Angeles
Motor Coach Company.

RAY L. CHESEBRO, City Attorney, WILLIAM J. CARR, Public Utilities
Counsel, JOHN W. HOLMES, Deputy City Attorney, and
EDWARD J. BURNS, Transportation Engineer, for the City
of Los Angeles.

K. CHARLES BEAN and STANLEY LANHAM, for the Board of Public
Utilities and Transportation, City of Los Angeles.

HAROLD P. EULS, City Attorney, and H. BURTON NOBLE, Deputy City
Attorney, for the City of Pasadena.

WILLIAM R. ELAM, for the City of Arcadia.

AUBREY N. IRWIN, City Attorney, and A. L. LAWSON, Assistant
City Attorney, for the City of Glendale.

GEORGE W. TRAMMELL, City Attorney, and JOSEPH B. LAMB, Deputy
City Attorney, for the City of Long Beach.

E. E. VEDDER, City Attorney, for the City of South Pasadena.

T. D. PLUMER, Commissioner of Finance, for the City of
Santa Monica.

H. A. GRIFFIN, City Attorney, for the City of San Bernardino.
CARL BUSE, for the Hollywood Chamber of Commerce.
J. E. OGG, City Attorney, for the City of Alhambra and
Chamber of Commerce of Alhambra.
C. A. RUBY, City Attorney, for the City of Lynwood.
RICHARD C. WALTZ, City Attorney, for the City of Beverly Hills.
THOMAS BEWLEY, City Attorney, for the City of Whittier.
RALPH K. PIERSON, for the City of Compton.
WALTER F. DUNN, City Attorney, for the City of Sierra Madre.
LESTER LUCE, City Attorney, for the City of Gardena.
WILLIAM N. COBURN, for Workers on the Project.
JOHN GRANT, representing the Average Commuter.

EBERT L. PORTER, for Power Employes of Pacific Electric
Railway Company.

VERNE D. KENNEDY, National Representative of United Electrical
and Radio Workers of America, representing the Power
Employes of the Pacific Electric Railway Company.

A. O. ANDERSON, General Chairman, Brotherhood of Railway
Carmen.

HELEN OZMUN, Daughter of General Consul of Turkey, in
propria persona.

LLOYD H. MYERS, for the Glendale Chamber of Commerce.

WHITSELL, COMMISSIONER:

INTERIM OPINION

In the above-entitled application, filed December 17, 1937, Pacific Electric Railway Company, Motor Transit Company, and Los Angeles Motor Coach Company seek authority to increase their fares and charges for the transportation of passengers. Stating applicants' proposal herein in a general way, authority is sought to increase fares on the interurban lines by adding ten per cent and on the local lines increase from 5¢ zones to 7¢ cash or four tokens for 25¢. It is estimated that as a result of these proposed increases in fares Pacific Electric would enjoy an increased revenue of \$543,185, of which \$250,143 would be derived from local operations and \$293,042 from interurban operations. The estimated increase to Motor Transit Company amounts to \$60,170. In the case of the Los Angeles Motor Coach Company the amount of the increased revenue is comparatively small.

Applicant in chief, in connection with this proceeding, is Pacific Electric Railway Company. Joint application of the Motor Transit Company and the Los Angeles Motor Coach Company was primarily for the purpose of equalizing fares between points where a parity of fares would be upset in case fare increases were allowed on lines of the Pacific Electric Railway Company and existing fares maintained on the lines of Motor Transit Company and Los Angeles Motor Coach Company.

Motor Transit Company is a wholly-owned subsidiary of Pacific Electric Railway Company, as the name implies, its operations being confined entirely to motor coach service. The schedules are arranged in so far as practical to coordinate with Pacific Electric's rail operation, and in most cases fares are the same and tickets interchangeable. The Los Angeles Motor Coach Company is owned and operated under a joint agreement between Pacific Electric Railway Company and the Los Angeles Railway Corporation, each owning a one-half interest. This carrier's operations are being continually expanded to serve what might be termed border-line territory of the two parent companies.

In the application it is alleged in effect that:

Pacific Electric Railway Company had, during the nine months ending September 30, 1937, realized revenues insufficient by approximately \$206,000 to pay its operating expenses and taxes, and \$2,300,000 less than sufficient to pay its fixed charges and expenses of operation;

As a consequence of certain proceedings of the Emergency Board appointed under Section 10 of the Railway Labor Act in National Mediation Board Case No. A-411, substantial increased labor rates were granted to certain employes of applicants retroactive in general to August 1, 1937;

The revenue to be derived from its railroad business at existing rates and charges would not be sufficient to meet operating expenses under the uniform system of accounts for the year 1938 by a sum in excess of \$900,000;

Unless the relief asked for should be granted in the matter of increased rates for passenger traffic, as well as the increase in freight rates requested of the Interstate Commerce Commission, Pacific Electric Railway Company will be unable to continue in the public interest its adequate and sufficient transportation service;

While there has been some increase in traffic along with the gradual improvement in business in the country generally since the low point of depression, that increase has unfortunately been attended by concomitant increases in cost of operation at a greater rate, such that Pacific Electric Railway Company has been unable to improve its financial condition as a result thereof;

In view of the above described contentions, the application was prepared in the form of an emergency request.

To date the record consists of 1,065 pages of transcript and 53 exhibits, consuming eight days of hearing.⁽¹⁾ At the opening hearing, counsel for applicants stated that as a result of recent increases in operating cost, a financial emergency existed with respect to Pacific Electric, as the company was not earning its operating expenses and taxes, and by this application sought only to meet these obligations without a return on the investment in property devoted to public use, and, therefore, requested the Commission to grant the proposed increase on an interim basis pending the time a thorough investigation could be made by all interested parties and the presentation of the results of the same before the Commission. Following the hearing on March 12th, the matter was taken under submission for the purpose of considering applicants' request for an interim order. The parties were allowed until March 22, 1938, to file concurrent briefs dealing with the request for such interim order. A number of such briefs are now before the Commission.

Pacific Electric Railway Company presented evidence to show the results of its operation on a financial basis, to the

(1) Hearings were conducted at Los Angeles on the following dates: January 7th, February 8th, 9th, 10th, and 11th, and March 10th, 11th, and 12th, 1938. The next hearing is set for August 3, 1938, at Los Angeles.

effect that, in accordance with the uniform system of account for electric railways, its gross income was \$426,845 less than enough to meet operating expenses for the year 1937, and that the net income was \$2,982,381 less than enough to meet the operating expenses and fixed charges for the same period of time. Furthermore, the record shows that an annual increase of \$636,862 in payroll of Pacific Electric Railway Company obtains from the recent increases in wages. Effective February 1, 1938, there was an increase of 5¢ per hour granted to railway maintenance of way employes, which would amount to an additional annual cost of \$41,732, and as a result of certain removals of inequalities in rates of pay to other employes, an additional cost of \$25,000 annually was incurred. On the whole it was contended that the increase in labor costs would result in an annual increase in payroll of \$703,600. Applicable to this increase in payroll there will be an increase in taxes pursuant to the Federal and State Social Security Act (Unemployment Insurance), and taxes under the Carriers' Taxing Act of 1937 (Railroad Retirement Act), the total of which will amount to \$40,450. The combination of increased payroll and taxes thereon, it was contended, would amount to \$744,050 annually for Pacific Electric Railway Company. It was estimated that as a result of the increased pay granted to the employes of Motor Transit Company, together with the taxes thereon, the labor expense would be increased \$57,682 annually.

It is urged that the unpreventable increases in cost set forth above constitute the major factor which is instrumental in creating the present emergency; that the proposed increases in fares would do no more than meet the added operating costs thus involuntarily imposed upon applicants; that Pacific Electric Railway Company has rendered its services on a non-compensatory basis

for many years; and that applicants are entitled, as a matter of law, as well as a matter of justice, equity, and fair treatment, to have the rates as prayed for established "so long as the rates per se are reasonable."

It is further contended by applicants that an undue delay in granting the requested emergency relief will be serious in its effect and will result in great inconvenience to the public and an injustice to applicants, and if relief is too long delayed, a situation may develop which will make it difficult, if not impossible, to accomplish permanent economies which might otherwise be made effective in a more orderly manner after a thorough and careful analysis. However, applicants agree that every suggestion made by any of the interested parties herein, which might lead to better service or economy in operation, ought to be studied, analyzed, and developed, and if the final conclusion seems to justify such changes, they should be put in operation; that the company welcomes any general or special study such as those proposed to be conducted by other interested parties; and that the fullest cooperation in such studies and investigations is pledged by the applicants.

On the other hand, the City of Los Angeles opposes the granting of an interim order, taking the position that the proposed increase in fares on the Los Angeles local lines of the Pacific Electric would not only fail to produce the additional revenue which the company estimates, but would jeopardize a large portion of its most profitable short haul business, and that the interim increase would be in the face of the fact that these lines have been shown to be self-sustaining. It is alleged that if interim increases are granted and subsequently found to be unprofitable, the damage which will have been done will be impossible of correction. The City's estimates show that under the proposed increase of fares, 19% of the Los Angeles local patrons would be lost, and point to a plan of bettering its

financial position by reducing operating costs through changes in the system of operation whereby it will be possible to effect an estimated annual operating saving of \$615,000 by carrying out the suggestions offered by city witnesses. This estimated operating saving would be accomplished largely through consolidating lines and service. For example, in some cases it is proposed to discontinue the operation of certain local lines and expand the interurban operations along the same tracks to provide a substitute local service. It is contended that present schedules on such interurban lines can be maintained through the purchase of new equipment in some cases and increasing the motive power of the cars in others. Obviously this plan calls for a substantial investment in equipment which the carrier contends it is in no position to finance at this time. The city's plan is challenged by the witnesses of the Pacific Electric Railway, both as to the amount of the possible saving and also the practicability of the plan.

In the city's brief it is pointed out that in the light of the Commission engineers' testimony, Pacific Electric Railway could, over a period of years, have been forced into bankruptcy by the withdrawal on behalf of Southern Pacific Company of its financial assistance, and it has not been shown or indicated that Southern Pacific now intends to throw Pacific Electric into bankruptcy. The city contended that in the light of the evidence submitted relating to the cash condition of the company, no emergency exists at this time in as much as the cash condition during February, 1938, was at a higher level than was the case on many previous occasions within the past four years. It is further pointed out that a satisfactory cash position was shown to exist after the recent wage increases had become fully effective and after the retroactive wage payments to August 1, 1937, had been made.

The cities of Glendale, Pasadena, and Long Beach take a similar position to that of Los Angeles, to the effect that no emergency exists which justifies an interim order at this time, and that any adjustment in fares should await the completion of the investigations now under way.

The question here for determination is whether or not applicants are entitled to an interim order pending the time a thorough investigation can be made of the entire operations. As contrasted to the cities' position referred to above the argument in favor of an emergency situation centers around three major items, viz.:

1. Increased operating expenses resulting largely from increased labor costs.
2. Demand of the Southern Pacific Company for its portion of revenues collected by Pacific Electric, and Southern Pacific's position that it cannot now finance operating losses incurred by Pacific Electric.
3. Losses sustained by Pacific Electric as a result of floods during the recent rains.

With respect to increased labor costs, Pacific Electric showed that this item amounts to approximately \$744,000, which includes the taxes incident to the increased labor costs. In addition to this amount there will be some \$70,000 added to the payroll as a result of an increase of 1% in the Federal and State Social Security Tax for the year 1938 as compared to 1937. It should be pointed out, however, that a comparison made by the Commission's engineer between Pacific Electric Railway Company's total payroll for the month of January 1937 and that for January 1938 showed an increase for the latter of about \$27,000, and a similar comparison for the month of February shows an increase of about \$17,000. Using the January comparison as a basis for the annual increased labor expense, the result would be approximately \$325,000 as contrasted with Pacific Electric's showing of approximately \$700,000. The record shows, however, that the personnel for the months of January and February, 1938, was substantially less than that for 1937 and the President stated the financial condition of the company required this reduction. As to whether or not this carrier can continue with a reduced personnel as compared to the former standard is not clear from this record. To partially

offset the increased labor costs Pacific Electric will, in all probability, enjoy an increase of some \$230,000 in its freight operations for 1938 as compared to 1937 as a result of an increase recently granted by the Interstate Commerce Commission.

Referring to the change of policy of Southern Pacific Company with respect to its subsidiary Pacific Electric, the record shows that on December 1, 1937, a change of policy was effected in the method of adjusting accounts between the two carriers involving various transactions. Prior to that date, all such transactions were carried through an open account, the Pacific Electric Railway Company retaining all moneys collected by it on behalf of Southern Pacific Company operations where Pacific Electric participated. Such moneys were credited to the Southern Pacific Company open account but retained for use by Pacific Electric. Exhibit No. 41, submitted by Commission's engineer, sets forth the condition of this open account, which includes certain subsidiary companies of Southern Pacific Company for the year 1937, wherein Pacific Electric collected moneys due to the Southern Pacific Company in amount of \$6,365,412. Offsetting this item there was shown charges to the account representing payments due Pacific Electric from Southern Pacific in amount of \$1,794,499, leaving a balance due Southern Pacific Company for the year of \$4,570,913. On the other hand, this exhibit shows that \$3,525,000 was paid to Southern Pacific Company on this open account by Pacific Electric during the year 1937, leaving a balance due Southern Pacific Company for the year in connection with such inter-company transactions of approximately \$1,000,000. In addition thereto, the exhibit shows that Southern Pacific Company paid, on behalf of Pacific Electric \$1,706,050 in bond interest during the year.

Although there is evidence of record to indicate that it would definitely not be to the interest of Southern Pacific Company

to allow Pacific Electric Company to go into bankruptcy, by reason of the fact that as a consequence thereof Southern Pacific Company would be forced to make good its guarantee of the first refunding mortgage of Los Angeles Pacific Company in amount of \$8,298,000, nevertheless it appears that Southern Pacific Company has issued an edict to all of its subsidiaries that on and after December 1, 1937, all inter-company transactions are to be handled on the same basis as accounts with outside parties. In this connection we must give consideration to the fact that there is before this Commission, in connection with other proceedings, evidence indicating that Southern Pacific Company is in urgent need of increased revenue to meet its obligations and that it has pending at the present time an application for a loan from the Reconstruction Finance Corporation in amount of \$14,000,000.

With respect to the losses sustained as a result of flood, during the recent rains, the record shows that Pacific Electric will sustain a property damage of approximately \$300,000 and a loss in revenue of about \$350,000. Ordinarily it would be improper to charge such a loss to a short period of time; in other words, it should be amortized over a reasonable period as it is an unusual expense and therefore should be considered as a non-recurring one. Nevertheless it presents a serious financial problem to this carrier at this time and must be given consideration in connection with applicants' request for an interim order.

At this time the Commission's engineers are making a comprehensive survey of applicants' entire operations, particularly those of the Pacific Electric Railway Company. In view of the magnitude of this work, it will require several months to complete the survey. At the conclusion of this study, reports will be submitted to the Commission as part of the record in this proceeding. It is also understood that various public organizations are making surveys with respect to their particular interests, and it is reasonable to assume that it will take some time for the completion of these investigations. The

Commission expects to enjoy the benefit of these studies in this record before a final determination of the matter is made. It is also expected that applicants will submit further detailed studies looking toward a plan of providing the best service to the public at the least cost.

A careful review of this record leads to the conclusion that from both the standpoint of applicants and the general public, an interim order should be issued granting some relief pending the time the final determination of the application can be made.

As stated above, Pacific Electric Railway Company seeks in this application an increase of 10 per cent in its interurban fares and an increase from 5¢ to 7¢ cash, or four tokens for 25¢ on its local lines. This plan calls for an increase in local fares of approximately 30 per cent. It would appear to be more equitable to adjust the increase in the two classes of service to a more nearly common level, particularly on an interim basis, than to grant an increase of 10 per cent in one case and 30 per cent in the other, without the benefit of a complete record. Following this theory it appears appropriate to authorize applicants to increase the local fares from 5¢ to 6¢ cash, which will be an increase of 20 per cent, rather than employing the local fare structure urged in the application, therefore, the following order will provide that applicant may increase its interurban fares 10 per cent where the fare is 10¢ or more and its local fares from 5¢ to 6¢, pending the time a complete record can be developed in this matter. It should be understood that these increases are granted entirely on an interim basis and will in no way prejudice the final determination of this application.

Under this plan the present 6¢ fare on the lines of the Los Angeles Motor Coach Company will remain unchanged for the present.

*Interim Order in 21656 to Monday,
J. S. Hunter*

INTERIM ORDER

Pacific Electric Railway Company, Motor Transit Company, and Los Angeles Motor Coach Company having filed application as indicated in the foregoing Interim Opinion for emergency relief by means of an Interim Order authorizing an increase in fares, public hearings having been held, the Commission being apprised of the facts, and the matter being under submission and ready for decision, in so far as said interim rates are concerned,

It is Hereby Found as a Fact that a financial emergency exists due to the fact that the Pacific Electric Railway Company's revenues obtaining under the existing fare structure are not now, and will not be in the near future, sufficient to defray operating expenses and taxes and permit of the continuance of reasonable and adequate public transportation; and furthermore, that inasmuch as the tariffs of Motor Transit Company are for the most part constructed at the same level as those of Pacific Electric Railway Company, and joint fares and interchangeable tickets are maintained between the two carriers, as set forth in the Interim Opinion preceding this Order, it appears proper that this parity of rates should be maintained for the present; also, with respect to the operations of the Los Angeles Motor Coach Company, there are two lines which operate in competition with the Pacific Electric and the fares are the same, viz., Los Angeles-Beverly Hills Line, in the case of the ten-ride ticket fare, and the Hollywood-Long Beach Line. It therefore appears that this parity of rates should be maintained for the present.

IT IS HEREBY ORDERED that Pacific Electric Railway Company be and it is hereby authorized to establish, in accordance with the Commission's rules, within thirty (30) days from the date of this Order, upon not less than five (5) days' notice to the Commission and the public, interim rates of fare between points on its inter-urban and local system, in conformity with the provisions shown in

the following schedules:

A. Local Lines, which include Los Angeles, Pasadena, Glendale, Long Beach, San Bernardino-Colton, and Upland-Ontario:

1. All 5-cent zone fares may be increased to 6 cents.
2. All school tickets may be increased to one-half the cash fare.

B. Interurban Lines:

All one-way, round trip, commutation fares, and weekly and monthly passes, 10 cents or over, may be increased by 10%, with a minimum of 6 cents, except:

1. There shall be no increase (except in the minimum fare) in the one-way and round trip fares on the following lines:
 - a. Los Angeles-Glendale-Burbank Line.
 - b. Venice Short Line.
 - c. Santa Monica-Beverly Hills Line.
 - d. Hollywood-Scuth Hollywood-Santa Monica Line.
 - e. Hollywood-Beverly Hills-University Motor Coach Line.
 - f. Santa Monica Air Line.
 - g. Beverly Boulevard Motor Coach Line.
 - h. San Fernando Valley Line.
2. With respect to the Los Angeles-Santa Monica-Ocean Park-Venice-Playa del Rey Line, where the Company has in effect a 10-ride ticket on a trial basis, which expires April 30, 1938, this 10-ride ticket may be increased from \$1.50 to \$1.75

NOTE: In computing one-way and round trip fares where the result is one-half cent or more, add sufficient to make the fare end in even cent. Where the result is less than one-half cent, the fraction shall be dropped.

In computing commutation fares and pass fares, where the result is $2\frac{1}{2}$ cents or more, add sufficient to make the fare end in 0 or 5. Where the result is less than $2\frac{1}{2}$ cents, the fraction shall be dropped.

IT IS HEREBY FURTHER ORDERED that Motor Transit Company be and it is hereby authorized to establish, in accordance with the Commission's rules, within thirty (30) days from the date of this Order, upon not less than five (5) days' notice to the Commission and the public, interim rates of fare between points on its interurban and local systems, in conformity with the provisions shown in the following schedule:

A. Minimum fare 6 cents.

B. All one-way, round trip, commutation fares, and weekly and monthly passes, 10 cents or over, may be increased by 10%; except that with an increase in the minimum fare from 5 to 6 cents, there shall be no other increase on the Sunland Line.

IT IS HEREBY FURTHER ORDERED that Los Angeles Motor Coach Company be and it is hereby authorized to establish, in accordance with the Commission's rules, within thirty (30) days from the date of this order, upon not less than five (5) days' notice to the Commission and the public, interim rates of fare between points on its system, in conformity with the provisions shown in the following schedule:

A. The 10-ride ticket applying between Los Angeles-Beverly Hills (Whittier Drive) via Wilshire Boulevard Line, or Olympic Boulevard-Third Street Line, may be increased 10%.

B. One-way and round trip fares between Hollywood and Long Beach may be increased 10%.

IT IS HEREBY FURTHER ORDERED that in all other respects, for the purpose of the Interim Order herein, the increased fares, as requested, are hereby denied.

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 opinion, public/convenience and necessity demand such action.

The foregoing Interim Opinion and Order are hereby approved and ordered filed as the Interim 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 11th day
of April, 1938.

Walter H. Brown
Leon A. Williams
Francis R. Quinn
Rafael V. Lopez
Ray L. Allen

Commissioners