

Decision No. 30675

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SAN JOSE RAILROADS

(a) for authority to abandon all 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 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

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The Railroad Commission by its order in Decision No. 30675, dated March 7, 1938, in the above entitled matter, among other things, authorized San Jose Railroads, subject to certain conditions, to abandon all its street railway lines and granted it a certificate of public convenience and necessity to transport passengers by motor coaches in the Cities of San Jose and Santa Clara and in the County of Santa Clara.

It appears that portions of the street railway lines to be abandoned are subject to the lien of the trust indenture securing the payment of outstanding bonds<sup>(1)</sup> of San Jose and Santa Clara County Railroad Company, applicant's predecessor, and that it is applicant's intention to cause the execution of supplemental indentures placing

(1) Of these bonds (first mortgage 4½s, due April 1, 1946) \$414,000. were reported outstanding on April 1, 1938, of which \$155,000. were reported owned by Southern Pacific Company.

under the lien of the mortgage of said predecessor company the resettlement franchise granted to it by the City of Santa Clara, the certificate of public convenience and necessity granted by the Railroad Commission by said Decision No. 30675, and its right, title and interest in and to nine motor coaches to be acquired by it. In addition it is reported to be the intention of Southern Pacific Company, which owns all of applicant's outstanding stock and bonds and all of the outstanding stock of San Jose and Santa Clara County Railroad Company, to deposit with the trustee under the mortgage of San Jose and Santa Clara County Railroad Company all of the bonds of San Jose Railroads, together with the bonds of San Jose and Santa Clara County Railroad Company, now held by it.

In a supplemental petition filed in this proceeding on March 19, 1938, San Jose Railroads asks the Commission for authority to execute two supplemental indentures of mortgage in which it grants, without warranty or implied covenant, to Wells Fargo Bank & Union Trust Co., as trustee under the mortgage of San Jose and Santa Clara County Railroad Company, all of its right, title and interest in and to the resettlement franchise granted by the City of Santa Clara; the operative rights granted by the Railroad Commission for motor coach operation in lieu of street railway lines formerly belonging to San Jose and Santa Clara County Railroad Company, including all rights granted by Decision No. 30675; and nine motor coaches. The Commission is asked also to grant such authority as may be necessary for the deposit with said trustee by Southern Pacific Company of the bonds of applicant and of its predecessor, as set forth above.

Copies of the proposed supplemental indentures of mortgage have been filed with the supplemental petition as Exhibits A and B. They appear to be in satisfactory form and an order authorizing the execution accordingly will be entered.

The Commission by Decision No. 27774 dated February 25, 1935, authorized the execution of a supplemental indenture subjecting to the lien of the mortgage of San Jose and Santa Clara County Railroad Company, the rights and privileges granted by Ordinance No. 2438 of the City of San Jose, sometimes referred to as a resettlement franchise.

FIRST SUPPLEMENTAL ORDER

San Jose Railroads having filed its application with the Railroad Commission for a supplemental order, as indicated in the foregoing opinion, and the Commission having considered the matter and being of the opinion that the application should be granted, as herein provided,

IT IS HEREBY ORDERED, that San Jose Railroads be, and it hereby is, authorized to execute on or before August 1, 1938, a "Supplemental Indenture of Mortgage-Santa Clara Franchise" and a "Supplemental Mortgage covering Operative Rights for Motor Coach Lines and Certain Motor Coach Equipment" in or substantially in the same form as those filed with the Commission as Exhibit A and Exhibit B, respectively, annexed to the supplemental petition filed in this proceeding on March 19, 1938, provided that the authority herein granted is for the purpose of this proceeding only and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said instruments as to such other legal requirements to which they may be subject.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be, and it is hereby, authorized to deposit with Wells Fargo Bank & Union Trust Co., as trustee under the indenture executed by San Jose and Santa Clara County Railroad Company as additional security for the payment of said company's bonds and the interest thereon, all of the outstanding bonds of San Jose Railroads and all of the bonds of said San Jose and Santa Clara County Railroad Company which are owned by Southern Pacific Company.

IT IS HEREBY FURTHER ORDERED that San Jose Railroads, San Jose and Santa Clara County Railroad Company and Southern Pacific Company as their respective interests may appear, shall file with the Commission within thirty(30) days after their execution, the following:-

1. A copy of each of the indentures herein authorized to be executed;
2. A copy of the agreement relating to the deposit, with the Wells Fargo Bank & Union Trust Co., trustee, of the bonds of San Jose and Santa Clara County Railroad Company owned by Southern Pacific Company;
3. A copy of the agreement relating to the deposit, with the Wells Fargo Bank & Union Trust Co., trustee, of the bonds of San Jose Railroads owned by Southern Pacific Company; and
4. A copy of the request upon the Wells Fargo Bank & Union Trust Co., trustee for release of properties, together with a resolution of the Board of Directors of San Jose and Santa Clara County Railroad Company authorizing the filing of such request.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective upon the date hereof.

DATED at San Francisco, California, this 2<sup>nd</sup> day of May, 1938.

William H. Harrison

James R. Allen

Rafael J. Lopez

W. L. Allen

COMMISSIONERS.