

Decision No. 29889.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
MARKET STREET RAILWAY COMPANY, for an) Supplemental
Order of the Railroad Commission of) Application No. 21115.
the State of California authorizing)
emergency increases in certain fares.)

WM. W. 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.

WARE, COMMISSIONER:

OPINION ON SUPPLEMENTAL APPLICATION

The Commission, by its Order in Decision No. 29889, dated
June 21, 1937, in the above-entitled proceeding, authorized the
Market Street Railway Company to make certain changes in its fare
structure.⁽¹⁾

In denying applicant authority to put into effect the
fare structure it proposed in the original application, the Com-
mission pointed out that although it had been shown that applicant

(1)

	<u>A</u>	<u>B</u>	<u>C</u>
Cash fare	5¢	7¢	5¢
" " in combination with transfer	5¢	7¢	7¢
Token fare, with transfer, (4 for 25¢)	-	6½¢	-
School Children, with transfer	2½¢	3-1/8¢	2½¢
Sunday and Holiday Pass	20¢	25¢	25¢

A - Fares in effect at the time the original application
No. 21115 was filed (April 1, 1937).

B - Fares sought in original application No. 21115.

C - Fares authorized by Decision No. 29889 (Fares became
effective July 6, 1937).

was entitled to a substantial increased revenue, it was not convinced that the proposed fare structure was preferable to one which involved a lesser increase, either from the standpoint of the company or the public. This conclusion caused the Commission to search for a lower fare to be tested on an experimental basis. The following is quoted from said Decision No. 29889:

"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."

On March 19, 1938, applicant filed its Petition Supplemental to Application No. 21115 for Order authorizing emergency increases in certain street railway fares, wherein it is alleged, in effect

1. That applicant forthwith complied with the Order of Decision No. 29889, and on July 6, 1937, put into effect, upon an experimental basis, the schedule of fares authorized by this Order.
2. That the revenues had declined \$330,693 for the year 1937 as compared to 1936; and at the rate of approximately \$356,000 for the last six months of 1937 as compared with similar period of 1936.
3. That for the year beginning March 14, 1938, applicant's operating expenses would be increased \$121,600 as a result of increased labor rates pursuant to an agreement with Division 1004 of the Amalgamated Association of Street and Electric Railway and Motor Coach Employees of America.
4. That the Federal and State Social Security Tax for the year 1938 would increase applicant's operating expenses \$119,310 over 1936; and, in addition, the State ad valorem taxes for the 1937-1938 tax year are \$24,338 greater than the 1936-37 tax year.
5. That applicant has made every reasonable effort to reduce the cost of maintenance and operation of its property, consistent with the continuation of satisfactory service to the public; and that the revenue received from the fare structure presently in effect is not sufficient to meet the greater cost of wages and taxes.

In this supplemental application, authority is sought to put into effect the following fare structure:

Cash fares in San Francisco, other than on interurban cars, with free transfers	7 Cents
School children (San Francisco), with free transfers to other lines of the company, for continuous travel in the same general direction	20 rides for 70 cents
Sunday and Holiday Pass, for use in San Francisco	25 cents
South San Francisco line	7 cents
San Mateo line	7 cents where 5 cents is charged at present, and no change in balance of present fare structure.

Applicant estimates that under this fare structure, its revenue will be increased \$550,000 per year; it is not at this time seeking a fair return on its investment.

Further public hearings were conducted in this proceeding at San Francisco April 13th and 15th, 1938. Upon the completion of applicant's presentation, it requested authority to put into effect immediately the rate structure proposed in the supplemental application, alleging that due to its stressed financial condition it could not await any prolonged investigation which would have the effect of forcing the company into receivership.

The matter of granting an interim order was argued before the Commission en banc April 25, 1938.

APPLICANT'S SHOWING ON SUPPLEMENTAL APPLICATION

The results of applicant's operation during the past three years are shown on Exhibits Nos. 12, 13, and 14, which were introduced at the hearing held April 13, 1938, and from which the following tabulation is taken:

I t e m	Exhibit No. 12		Exhibit No. 13		Exhibit No. 14	
	For Twelve Months Ended		For Six Months Ended		For Three Months Ended	
	Mar. 31, 1938	Mar. 31, 1937	Dec. 31, 1937	Dec. 31, 1936	Mar. 31, 1938	Mar. 31, 1937
OPERATING INCOME:						
Railway Operating Revenues	\$ 7,116,146.49	\$ 7,422,780.06	\$ 3,609,010.15	\$ 3,787,245.78	\$ 1,668,907.80	\$ 1,745,483.14
Railway Operating Expenses	<u>6,017,069.21</u>	<u>5,915,524.66</u>	<u>3,030,538.85</u>	<u>2,977,532.25</u>	<u>1,469,897.77</u>	<u>1,444,358.70</u>
Net Revenue - Rwy. Oper.	1,099,077.28	1,507,255.40	578,471.30	809,713.53	199,010.03	301,124.44
Taxes Assignable to Railway Operation	<u>416,254.88</u>	<u>334,698.65</u>	<u>201,408.54</u>	<u>158,860.42</u>	<u>114,179.87</u>	<u>100,666.74</u>
Operating Income	\$ 682,822.40	\$ 1,172,556.75	\$ 377,062.76	\$ 650,853.11	\$ 84,830.16	\$ 200,457.70
TOTAL NON-OPERATING INCOME	<u>\$ 7,550.42</u>	<u>\$ 7,067.01</u>	<u>\$ 3,868.62</u>	<u>\$ 3,577.57</u>	<u>\$ 1,867.30</u>	<u>\$ 1,724.66</u>
Gross Income	\$ 690,372.82	\$ 1,179,623.76	\$ 380,931.38	\$ 654,430.68	\$ 86,697.46	\$ 202,182.36
TOTAL DEDUCTIONS FROM GROSS INCOME	<u>\$ 476,129.99</u>	<u>\$ 506,699.17</u>	<u>\$ 237,720.13</u>	<u>\$ 252,976.38</u>	<u>\$ 117,164.61</u>	<u>\$ 125,149.44</u>
Net Income **	\$ 214,242.83	\$ 672,924.59	\$ 143,211.25	\$ 401,454.30	\$ 30,467.15*	\$ 77,032.92

* Denotes Red Figures

** Exclusive of annual depreciation of \$500,000.00

The Market Street Railway Company has \$31,926,450 of stock outstanding. This stock consists of the following:

a. Prior preference stock	\$11,750,000.
b. Preferred stock	5,000,000.
c. Second preferred stock	4,700,000.
d. Common stock	10,700,000.

No dividends have been paid on any class of stock during the past fourteen years.

The funded debt of the company in the hands of the public on February 28, 1938, is reported at \$4,930,221, and consists of \$4,878,000 of 7% bonds, \$41,391 of 6% notes due The J. G. Brill Company, and \$10,830 of 5% notes due The Twin Coach Company of Kent, Ohio. In addition, the company must pay 7% interest on \$2,240,500 of first mortgage bonds now in the sinking fund.

The company's outstanding bonds were issued pursuant to the authority granted by Decision No. 13130, dated February 11, 1924, in Application No. 9726. In that decision the Commission authorized the company to issue \$13,000,000 of first mortgage 7% bonds due April 1, 1940. Of these bonds \$5,853,500 have been acquired by the trustee and cancelled, and \$28,000 are in the company's treasury. Under the trust indenture securing the payment of the bonds, the company must currently pay to the trustee for sinking fund purposes the interest on the bonds held alive in the sinking fund, the proceeds realized from the sale of mortgaged property, and, in addition thereto, \$75,000 quarterly. Some of the indebtedness referred to below was incurred to meet sinking fund payments.

The company has not been able to refund its 7% bonds with bonds carrying a lower coupon rate.

Market Street Railway Company is indebted to the Wells Fargo Bank & Union Trust Company in the sum of \$175,000 with interest at 3% per annum, and to the Anglo California National Bank in the sum of \$300,000, with interest at 4% per annum. It owes the Standard Gas

and Electric Company on open account \$867,492.26, and the Pacific Gas and Electric Company for electric energy \$598,396.07.

According to the testimony of Samuel Kahn, it pays interest at the rate of 6% per annum on the amount owing the Standard Gas and Electric Company and the Pacific Gas and Electric Company.

Exhibit No. 12, filed in this proceeding, shows that for the year ended March 31, 1938, the interest on the company's funded debt amounted to \$357,734.18, and the interest on its unfunded debt amounted to \$91,531.84. The interest on the funded debt does not include the interest paid on bonds in the sinking fund which, for the year ending February 28, 1938, is reported at \$134,583.75.

The record shows that the company has given consideration to a number of different fare structures, viz., a six-cent fare, a seven-cent fare (cash) with four tokens for 25 cents, a straight 7-cent cash fare, and zone fare.

The result of the study dealing with the six-cent basic fare is shown on Exhibit No. 23, filed at the hearing April 15, 1938. This shows that the company estimates, under such a fare, that its earnings would be decreased slightly over \$500,000 per year. Exhibit No. 6 shows the result of the study dealing with a seven-cent fare, with four tokens for 25 cents. This exhibit was filed April 22, 1937, previous to the time the Commission authorized the company to put into effect a charge of 2 cents for a transfer, and shows the estimated increase with such a fare to be slightly over \$350,000 per year.

With respect to the study dealing with the estimated results of operation on a straight seven-cent fare, Exhibit No. 17, filed April 13, 1938, shows that the estimated increased revenue under this fare structure would amount to nearly \$550,000 per year.

Mr. Kahn, president of the Market Street Railway, stated that in making the estimates for both the straight six-cent and

and seven-cent fares, he has applied the same diversion factors in each case. In other words, he assumes that there will be no more diversion or diminution of travel on his lines as a result of an increase of 2 cents than there would be with a one cent increase over the basic five-cent fare (Tr. p. 216).

Applicant also gave consideration to a zone form of fare and reached the conclusion that it was undesirable and unworkable in the City of San Francisco, principally for the reason that the average ride is comparatively short and the problem of collecting fares under this plan would be practically impossible, particularly during times of peak travel, and for the further reason that some of the lines are operated with one man, which further complicates the problem of operation on a zone fare plan.

Mr. Kahn further testified that if all three local street transportation systems serving San Francisco were put on the same basic fare, each could operate profitably on a six-cent basic fare (Tr. p. 210).

Counsel stated (Tr. p. 252), that although none of the above estimates met the company's immediate requirements, amounting to \$680,000,⁽²⁾ it was willing to accept a seven-cent basic fare on at least a trial basis.

POSITION OF THE CITY AND COUNTY OF SAN FRANCISCO

Counsel for the City of San Francisco stated that:

"the Board of Supervisors of the City and County of San Francisco directed the City Attorney of San Francisco to appear before the Commission and to oppose, one, an increase of fares from the present rates charged, and, secondly, to vigorously oppose any zoning proposition that may be advanced."

(2) "So we have, then, the deficiency in operating income of \$489,000 odd; the necessity of paying additional wages of the men of \$120,000 odd; the necessity of paying additional Social Security taxes in the sum of \$45,000 odd; the personal property taxes in the sum of \$24,000 odd, making a total of \$680,000 odd, or something in excess of \$56,000 per month." (Tr. p. 247).

The City contends that the company could better its financial position by effecting operating economies through the elimination of certain lines. Furthermore, it is contended that the revenues could be increased if better service were provided on some of the lines.

CONCLUSIONS:

A review of this record leads to the conclusion that a financial emergency exists with respect to the Market Street Railway Company, and that it would not be in public interest or fair to the company to deny applicant an opportunity to try out some different form of fare structure at this time.

The Commission, in said Decision No. 29889, pointed out that:

"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."

The above conclusion has been vindicated by the experimental fare of 2 cents charged for transfer. We cannot agree with applicant's conclusion that there will be as much diversion with a six-cent basic fare as with a seven-cent one. On the other hand, it is our conclusion that the diversion will be substantially more with the higher fare; also, we cannot entirely ignore the jitney competition in San Francisco, where there are now some 136 jitney

busses operating under permits from the City and County of San Francisco, with a fare of 10 cents.⁽³⁾ This operation, in direct competition with the Market Street Railway Company, will be more severe with a straight seven-cent fare than will be the case with a lesser one.

In view of the fact that applicant has not demonstrated to our satisfaction that the straight seven-cent basic fare is preferable, from the standpoint of both the public and the company, to the one proposed in its original application, i.e., seven cents cash fare with four tokens for 25 cents, it would seem reasonable to conclude that if all applicant's estimates are based upon the same diversion for the different fares, it might well be that the seven-cent cash and token fare structure will work not only to the advantage of the company but will certainly be to the advantage of the patrons of this line. The token use also has the advantage of popular appeal as well as aiding in expediting the service through the use of a single coin.

A careful review of this record leads to the conclusion that applicant should be authorized to put into effect a basic fare of seven cents cash, with four tokens for 25 cents, with the understanding that the proceeding will be held open for further investigation and study, and if upon a more complete record it appears that this fare structure should be changed, such an order will be entered.

While this order does not direct applicant to make any service changes in its operation, this is a matter which will also be held open for further investigation.

(3)Kahn: "Furthermore, if the Municipal, or rather, if the City operated the combined systems, I am satisfied that the jitney competition, which we have to endure at this time, and have had to endure for many years, would soon fade from the picture. The jitneys operate in competition with our lines but not those of the Municipal Railway and I am of the opinion that the jitneys deprive us of revenue of more than \$200,000 a year. The last count of the number of jitneys operated approximated 140." (Tr. p. 208).

A representative of the East Bay Street Railways, which provides local transportation service in the East Bay cities, testified that if applicant used a token similar in size and appearance to the one employed by the East Bay Street Railways, it would result in considerable confusion, as well as materially affecting revenues of that company because of the fact that tokens on that system are sold at the rate of seven for 50 cents, or 7.14+ cents each, whereas applicant proposes to sell its tokens at the rate of four for 25 cents, or 6 $\frac{1}{4}$ cents each. It is obvious that if the use of applicant's tokens on the lines of the East Bay Street Railways exceeded the use of the East Bay tokens on applicant's line, and they were redeemed at the respective selling prices, it would reduce the revenue of the East Bay carrier to the extent of the differential in the cost of the tokens. This appears to be a matter of considerable importance if both companies are to operate with tokens. Since it will be necessary for the Market Street Railway Company to revise its fare boxes to accommodate the token fare, it appears proper that it should adopt a form of token that would not materially affect the operations of the East Bay Street Railways as a result of the use of applicant's tokens on the lines operating in the East Bay. Therefore, the Commission will require applicant to submit, for approval, the form of token it proposes to use, previous to establishing a token fare on its system.

The following form of Order is recommended:

ORDER ON SUPPLEMENTAL APPLICATION

Market Street Railway Company, having made supplemental application for an order granting authority to further 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 (30) 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:

Fares in San Francisco, other than on interurban cars, with free transfers (Tokens shall sell at the rate of four for 25 cents).....	7 cents cash, or one token.
School children (San Francisco), with free transfers to other lines of the company for continuous travel in the same general direction.....	16 rides for 50 cents.
Sunday and Holiday Pass, for use in San Francisco.....	25 cents.
South San Francisco line.....	7 cents cash or one token.
San Mateo line	7 cents cash or one token where 5 cents is charged at present, and no change in the balance of present fare structure.

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

IT IS HEREBY FURTHER ORDERED that the size and design of token applicant proposes to employ shall have the Commission's approval prior to the time it is offered for sale to the public.

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 Supplemental Opinion and Order are hereby

approved and ordered filed as the Supplemental Opinion and Order
of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th
day of May, 1938.

Walter H. Harte
Leon A. Whittell
George R. Wilson
Ray C. Bradford
Ray C. Bailey
Commissioners