

Decision No. 32632

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
PACIFIC GREYHOUND LINES, a corporation,
for a certificate of public convenience
and necessity to operate a passenger bus
service as a common carrier between
points in Marin County.

Application
No. 21358

In the Matter of the Application of
PACIFIC MOTOR TRUCKING COMPANY, for certifi-
cate for the transportation of property be-
tween the freight and passenger terminals
of the Northwestern Pacific Railroad Company
in San Francisco and Sausalito, respective-
ly, upon the discontinuance of its passenger
ferry operation.

Application
No. 22453

In the Matter of the Application of
NORTHWESTERN PACIFIC RAILROAD COMPANY, for
authority to discontinue all interurban
electric passenger service on its electric
suburban lines in Marin County, and to dis-
continue operation of its passenger ferries
on San Francisco Bay.

Application
No. 22454

ADDITIONAL APPEARANCES

FREDERICK T. LEO and DUDLEY F. MILLER, for the
Save-the-Trains-and-Ferries League.
LAWRENCE A. COWEN, for the City of Belvedere.
A. J. TREAT, for the Varney Estate Company,
J. W. Harrison Estate and Sausalito Land
& Ferry Company.
L. S. SCHRODER, for the Brotherhood of Locomotive
Engineers.

BY THE COMMISSION:

SUPPLEMENTAL OPINION

The Commission rendered an opinion in these three matters
on October 3, 1939, Decision No. 32400. However, no order was then

entered except that dismissing another matter which had been heard jointly, the application of Bridge Bus Lines Corporation. The above entitled applications were left open for further consideration. Inasmuch as it seems unnecessary to enlarge materially upon the facts therein quite fully set forth, this opinion may be taken as supplemental merely to that contained in Decision No. 32400.

It appears now to be conceded by all interested parties that should the Northwestern Pacific be granted authority to abandon its existing electric railway and ferry service between Marin County and San Francisco, the application of Pacific Greyhound to inaugurate substituted passenger bus service via the Golden Gate Bridge should also be granted. Yet, when in that decision the Commission expressed its tentative judgment upon each matter, it was deemed advisable to give consideration to a suggested plan for the institution of a publicly operated bus system, such proposal to be voted upon by the citizens of Marin County at the forthcoming election on November 7th. Under such circumstances the Commission then deemed it appropriate to express its tentative conclusions as to the merits of each proposal. It indicated clearly its belief that the record justified the granting of each, but final action was deferred until after further consideration when the voters of Marin County should have expressed their desires.

Upon the entering of that decision, three protests were filed, termed petitions for rehearing, these being in challenge to the conclusions which the Commission thus tentatively expressed, particularly to the conclusion that the interurban service of the Northwestern Pacific should be abandoned. Such protesting groups were the County of Marin, the City of Mill Valley, and the several

railway employees' organizations. Thereupon, a further hearing was ordered for the purpose of completing the record as well as the hearing of arguments by these protestants. This was had on November 20, 1939. Some additional evidence was then received, and arguments were presented both on behalf of the protesting groups and the applicant carriers.

It is now known that the citizens of Marin County have declared themselves decisively against the institution of a publicly operated transportation system. However, we are told by their representative that such election may not rightfully be taken as an expression of acquiescence in the substitution of bus commutation service by the Greyhound for the electric railway and ferry service presently accorded by Northwestern Pacific. On the contrary, the present patrons of this carrier now manifest their opposition to any form of motor bus transportation. They go so far as to pledge in writing their continued patronage of the existing ferry service, even at a commutation rate increased by two dollars per month over the present fares, and with a reduction in service. And through their counsel they now urge the Commission to accept such rate increase as an alternative to the proposal of Northwestern Pacific to abandon its interurban service because of financial losses incurred.

The arguments advanced in opposition to the Commission's tentative findings in justification of the abandonment of the interurban service are both legal and factual in their aspects. Although it seems to be admitted that the earnings from this part of the carrier's operations, as presently conducted, are less than the out-of-pocket costs of that service, it is argued that no part of the rail system operations may rightfully be discontinued unless

the system revenues as a whole fall short of meeting the costs of the entire business. And it is contended that no conclusion can be drawn from the record as to the insufficiency of the earnings upon the entire rail and ferry system operations. Then, for the purpose of extinguishing the losses incurred on the interurban service alone, the patrons of Northwestern Pacific offer to accept, and urge the Commission to adopt, a curtailed ferry schedule plan which more than 4,000 of them have pledged themselves to support, even at higher rates, in the hope that their existing form of transportation be permanently preserved.

More specifically, the plan presented by the committee representing the Marin County citizens opposing the discontinuance of rail-ferry service is one designed to so increase the revenues and to decrease the expenses of Northwestern Pacific as to assure it a return sufficient to meet the out-of-pocket charges assignable to this part of its carrier operations. They assert also that something in excess of cost will be returned upon the combined main-line and interurban business. The factual basis for this curtailed service proposal is found in the cost study submitted through the witness for the County of Marin, Mr. Lester S. Ready, in his Exhibit No. 35 reflecting his estimate of operating savings which might be realized should there be a reduction in the frequency of train and ferry service from the present thirty-minute schedule during the morning and evening rush hours to a forty-minute interval, and to an interval of one hour twenty minutes during the remainder of the day. The annual gross revenue required for the continuation of the existing interurban service on a permanent basis, according to Mr. Ready, is \$885,601, whereas it is his estimate that with the savings effected by such reduction in train and ferry schedules, augmented by certain other possible economies, the required revenue need not exceed \$682,328.

Nevertheless, in spite of this possible saving in operating expense, the 1938 gross interurban income of \$591,513 would, at existing rates, still leave the company \$90,814 short of equalizing its revenue and expense on this branch of its operations. In view of these facts, Mr. Ready frankly conceded the necessity of drastic rate increases if financial losses were to be eliminated, and he admitted also that one inevitable consequence of any increase in rates would be a further deflection of patronage from the rail-ferry service. Concluding his exposition of the situation thus presented, Mr. Ready refrained from expressing any opinion as to whether such a permanent improvement in the carrier's earning position was possible of realization.

It is with such testimony in mind, therefore, that the citizens of Marin County now voice an earnest desire to preserve, if possible, this form of transportation service. They declare in effect that they are ready to give the company what we may deem a commitment of continued patronage, and at rates sufficiently higher than the present scale as to at least extinguish future out-of-pocket losses. To accomplish this result, they offer a uniform increase of two dollars per month on all commutation fares; this increase, they submit, when related to the present commutation ticket sales of approximately 3,500 monthly, will yield the company \$84,000 annually in additional revenue. This sum is adequate, according to Mr. Ready's testimony, to offset the existing annual out-of-pocket loss in conducting this part of the transportation service, were a curtailed schedule service continued with existing facilities only, and were the extent of the company's deficit to be measured by its "annual cash requirements" in rendering this service along with its other rail operations.

It should be made clear that what the witness Ready refers

to as the annual cash requirement of the company in the conduct of its interurban electric-rail and ferry service is not the actual annual cash outlay assigned to this branch of its operations. The Commission's witness, Mr. Edwards, and the company's witness, Mr. Day, presented like studies, each endeavoring to ascertain just what financial burden might be cast upon the entire business by reason of the continued operation of the part here involved, either when continued on a curtailed schedule basis or as presently conducted. In so doing, each assumed that no interest return whatever would be earned upon the value of the facilities employed, nor any depreciation expense or rents allowed except upon a few of the newer cars. They included no overheads by way of apportioning some part of general officers' salaries to this operation, nor any of the general property taxes. And in estimating the effect of a curtailment in operating schedules, they assumed a greatly reduced rental for floor space and slips at the San Francisco ferry building because of possible consolidation with Southern Pacific facilities. The basic assumption, of course, was that all such operating charges would continue on without diminution even though the interurban operations should cease. Hence, this "minimum cash requirement," or "out-of-pocket cost," becomes the measure by which the witnesses compute the insufficiency of the company's present revenue from its interurban service. If the actual cash revenue derived from this service should equal or exceed this cash requirement, then the continuance of the service cannot be deemed to constitute a burden on its system operations.

Each witness applied much the same basic test, although differing somewhat in their factual analyses. Mr. Day made no estimate of the out-of-pocket cost of a restricted schedule service. Mr. Edwards and Mr. Ready presented several such plans, and they

also suggested some substitution of new steel electric car equipment in estimating the results of continued operation on a more permanent basis. Eliminating reference here to results reached under their substituted equipment proposals, the following figures will fairly reflect the conclusions of each should the interurban service be continued both with and without diminution in frequency of schedules.

I t e m	: Witness : Ready : Exhibit 35	: Witness : Edwards : Ex. 32 & 34	: Witness : Day : Exhibit 7
Revenue (Present Schedules)	\$591,513.75	\$591,000.12	\$588,569.00
Revenue (Reduced Schedule Operations)	591,513.75	540,477.36	-
Cash Requirement (Present Schedules)	852,512.00(*)	852,512.67(*)	922,884.00
Cash Requirement (Reduced Schedules)	672,328.00(*)	629,447.44(*)	-
Net Loss (Present Schedules)	260,998.25	261,512.55	334,315.00
Net Loss (Reduced Schedules)	80,814.25	88,970.08	-

*Depreciation and rentals on additional new equipment excluded.

It thus may be seen that the offer now made by the patrons of Northwestern Pacific is with the objective of tendering additional annual revenues in an amount sufficient, when added to its present income, to protect it against an out-of-pocket loss upon this branch of the business after certain economies of operation are effected. Whether the annual future traffic will equal that of the past year cannot be foretold. Undoubtedly, any substantial increase in rates exacted would normally cause some deflection of traffic to other forms of transportation. And seemingly it was in recognition of this fact that patrons have been prompted to pledge their continued use of the rail-ferry service, even though the rates be higher and the schedules less frequent. But as no offer has been presented to increase the

fares applicable to non-commuter traffic, the extent to which future revenue from this source may be decreased because of the curtailed service must depend mainly upon the seriousness of the citizens of Marin County as a whole in their expression of their determination to preserve, if possible, this form of transportation.

The Commission must accept the proposals thus made as having been offered in real sincerity and with some degree of confidence that by this means the financial position of Northwestern Pacific may be so improved as to encourage it likewise to hope for the successful operation of this part of its service in the future. We must take it to be conceded by the Northwestern Pacific that it would not now be seeking authority to abandon this branch of its service were it not convinced its revenues will remain less than the bare out-of-pocket costs incurred, for its showing before us has been premised upon such a test alone.

In view of these facts, the Commission feels compelled to hold that an abandonment of the electric rail-ferry service should not be permitted without a fair trial first being given to the proposed higher fare and reduced schedule plan. Such a trial demands the cooperation of all parties. Both commuters and occasional riders must continue to use the service of the trains and ferries to substantially the same, or even a greater, extent than they now are patronized. The Northwestern Pacific must use every effort to effect all possible savings. The company's employee associations, through their representative, Mr. McMillan, have pointed out the need of these economies. Proposed savings arising from releasing space at the Ferry Building may require the approval of the Harbor Board and its refusal to grant this approval will defeat the possibility of savings in this field. But when the trends of actual traffic and revenue become known, following

a fair trial of the plan for a reasonable period, the Commission, as well as the parties here before it, should be able more clearly to determine the course of their future action.

We are not unmindful of the argument advanced by Northwestern Pacific to the effect that the record of past results of operation justify its demand for an abandonment as a matter of legal right, nor of the counter arguments pressed upon us by the protesting groups. Such questions of law do not require our consideration here. This is not a final judgment. Certainly, this applicant for an order authorizing the abandonment of a transportation service so long continued in the past cannot claim an invasion of its rights by the deferring of action thereon for a reasonable time in order to await the test of actual experience.

Nor is the Commission without cognizance of the action recently taken by the Interstate Commerce Commission in giving its authority to Northwestern Pacific to abandon the ferry service here involved. We take it that the order of that body is permissive only, and that it does not foreclose this Commission from passing finally upon the public necessity for the continuance of purely local service.

Accordingly, it is the judgment of the Commission that its order here should be one holding the Northwestern Pacific application open for future consideration when, after a ninety-day period, the results under the experience of an increased fare and reduced schedule plan shall have become known. And our order will also give the necessary authority to this carrier to promptly establish the higher commutation fares which its patrons have offered, as well as to reduce the number of its operating schedules in conformity with the substance of the curtailed service plan suggested in the record.

Obviously, the Commission's final disposition of the applications of the two motor carriers should likewise be deferred.

O R D E R

Hearings and arguments having been had in each of the above entitled applications, and they having been submitted for the Commission's decision thereon, and the Commission having considered said matters, therefore, for the reasons set forth in the foregoing opinion supplementing that contained in Decision No. 32400 of October 3, 1939,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California as follows:

1. That submission of the matters in Application No. 21358 of Pacific Greyhound Lines, Application No. 22453 of Pacific Motor Trucking Company, and Application No. 22454 of Northwestern Pacific Railroad Company be and hereby are set aside, and that a further hearing of said matters be had at such time and place as the Commission may deem appropriate and shall hereafter direct, but such hearing shall be begun not more than three months following the filing of revised time schedules as hereinafter authorized.
2. That Northwestern Pacific Railroad Company be and hereby is authorized to file with the Commission and, upon not less than five (5) days' notice to the public, to make effective on January 1, 1940 a schedule of monthly commutation fares for the transportation of passengers between San Francisco and Marin County stations, which fares shall be two dollars (\$2.00) in excess of the existing commutation fares of said company; and

That Northwestern Pacific Railroad Company be and hereby is further authorized to file, upon not less than ten (10) days' notice to the Commission and to the public revised electric railway and ferry schedules affording a two-boat operation between the approximate hours of 6 a.m. and 12 p.m. and at not more than 45-minute intervals during morning and evening hours of heavy traffic.

In all other respects and 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 12th day of

December

, 1939.

Paul J. [Signature]
Frank [Signature]
Ray [Signature]
Justice F. Craven
Commissioners.