

Decision No. 32832.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN DIEGO ELECTRIC RAILWAY COMPANY, a corporation, for permission to substitute service by automobile bus in place of street railway service between San Diego and La Jolla, and for permission to remove or dispose of tracks and other operative property and to make incidental changes in service, routes and zone lines, and for grant of the necessary certificate of public convenience and necessity.

Application No. 23225.

Morrison, Hohfeld, Foerster, Shuman & Clark,
By Forest A. Cobb, for Applicant.

Dayton L. Ault, City Attorney, by H. B. Daniel,
Assistant City Attorney, and Walter W. Cooper,
City Consultant, for the City of San Diego.

CRAEMER, Commissioner:

O P I N I O N

The above numbered application, filed by the San Diego Electric Railway Company on January 5, 1940, seeks the Commission's authority - (1) to substitute service by motor coach in place of street railway service on its No. 16 car line between San Diego and La Jolla; (2) for permission to remove and/or dispose of its tracks and other operative property; and (3) to make incidental changes in service, routes and zone lines in the general area served by this rail line and by motor coach Route "C."

Public hearing on this matter was held at San Diego on January 19, 1940, at which time it was submitted, and it is now ready for decision.

The record shows that applicant now furnishes street railway service by its street car route No. 16 from a downtown terminus at Third Avenue and Broadway through the Ocean Beach,

Mission Beach and Pacific Beach areas to a northerly terminal in La Jolla. The entire route is within the city limits of the City of San Diego.

Applicant proposes to abandon operation of this street railway route and to remove and otherwise dispose of all operative property on said route between the intersection of Kettner Boulevard and Broadway and the end of the route at Fay Avenue and Prospect Street in La Jolla. In lieu of the service to be abandoned, it is proposed to substitute an automotive coach service along a route which is practically parallel to the rail route and which will serve the same area now being served.

A considerable portion of the rail route is over private right of way, one portion being for a distance of 2.2 miles in the center of Mission Boulevard in the section of the City of San Diego commonly known as Mission Beach. Through this area the private right of way is approximately 30 feet in width. Mission Boulevard is 80 feet wide from property line to property line, with driveways on either side of the private right of way which are 15½ feet wide. The city proposes to acquire this right of way and, after removing the rails, will lower the grade and pave in the area, thus eliminating these narrow roadways with their consequent hazard and effecting a great improvement to an important artery of automobile traffic. The rail line involved has been in operation since 1924 and the record clearly shows that there has been agitation ever since that time, looking toward a removal of the tracks.

Exhibit No. 3, introduced at the hearing, shows that for the twelve-month period ending November 30, 1939, the rail line operated at a loss of \$8,044.65, whereas this same exhibit indicates that the proposed substitute motor coach operation can be conducted at a profit of \$8,150.02. Long sections of the rail line operate through marshy ground and undeveloped areas, whereas the proposed route of the motor coach line will be considerably nearer

the centers of population through which it passes, and these factors, in connection with the fact that it is proposed to provide a more frequent service through the area, should result in attracting considerable patronage to the service which has heretofore never been available.

At the present time the zone line between Zones 3 and 4 on the rail line is located at Ocean Beach Junction but the route of the proposed bus line on West Point Loma Boulevard will bring this new coach line within a block of applicant's Ocean Beach bus line at Cable and Voltaire Streets and through territory which is now in the fourth zone on that line. It therefore becomes necessary to relocate the zone line between Zones 3 and 4 on the new motor coach line to Montalvo Street. Such a change will result in an increase of 5¢ in the one-way fares and 2½¢ each way on round-trip fares between the San Diego terminal and Ocean Beach Junction. Exhibit No. 8 indicates, however, that only a small number of passengers will be affected, as there are only some 30 round-trip fares sold per day. The weekly pass users would be unaffected by the change in the fare zone. Those persons now desiring to use the car line at the fare-breaking point must walk a distance of some 1100 feet over a pile trestle in order to reach that point. The proposed bus route will eliminate this walk and will be more convenient for these patrons, thus compensating for the slight increase in fares. Other than this, no changes in fares are proposed.

Applicant also operates a motor coach line, known as Route "C," in the City of San Diego, having its downtown terminus at Front and "B" Streets and its northerly terminus in La Jolla. From the intersection of Garnet and Cass Streets in Pacific Beach to the northerly terminus of the line at La Jolla, this motor coach route is essentially identical with the route proposed to be substituted for the rail service to be abandoned. The applicant therefore seeks authority to extend this line on Garnet Street to

connect with the proposed service at Mission Boulevard and Garnet Street and abandon that portion just referred to as being a duplicate service. Service on Route "C" at present is operated as express service between the San Diego terminal and Mason Street, which is the outer terminal of applicant's Route "A" motor coach line. The territory between Mason Street and Pacific Beach, and even beyond, is sparsely settled and therefore the patronage is small. It is proposed to reroute this bus line over Pacific Highway between Rosecrans Street and Broadway, in which area there is a large volume of potential patrons. It is further proposed to relocate the San Diego terminal of the line to a more central location at the Plaza. Applicant proposes to operate nine round trips per day, as compared with the present eight round trips per day, and the change appears to be in the public interest.

The record indicates that notices of the date, place and time of the hearing in this matter were conspicuously posted in the cars operating on the La Jolla line and at strategic locations in Pacific Beach, Mission Beach and La Jolla, yet any material protest failed to develop. A single individual appeared and expressed the opinion that busses would be uncomfortable and that their operation would tend to increase rather than lessen traffic hazards.

Exhibit No. 13 is in the form of a resolution (Resolution No. 70654 of the City of San Diego), expressing its endorsement of the entire proposal of applicant and asking that this Commission act upon said application at the earliest possible date. Thorough consideration of the entire record in this proceeding leads us to the conclusion that the proposed changes are in the public interest and should be authorized. The following form of Order is recommended.

San Diego Electric Railway Company 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 feature may be changed or destroyed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

A public hearing having been held and the matter having been duly submitted;

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the establishment by San Diego Electric Railway Company of a motor coach service for the transportation of passengers in the City of San Diego over a route described as follows:

Commencing at the intersection of 3rd Avenue and Broadway, thence on Broadway to 4th Avenue, thence on 4th Avenue to E Street, thence on E Street to 3rd Avenue, thence on 3rd Avenue to Broadway, thence on Broadway to Pacific Highway, thence on Pacific Highway to Barnet Avenue, thence on Barnet Avenue to Midway Drive, thence on Midway Drive to West Point Loma Boulevard, thence on West Point Loma Boulevard to the Mission Bay Bridge, thence on the Mission Bay Bridge and Mission Boulevard to Turquoise Street, thence on Turquoise Street to La Jolla Boulevard, thence on La Jolla Boulevard to Pearl Street, thence on Pearl Street to Fay Avenue, thence on Fay Avenue to Prospect Street.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same is hereby granted to San Diego Electric Railway Company.

IT IS HEREBY FURTHER ORDERED that applicant is hereby authorized to re-establish its Route "C" motor coach line over a route which, in its entirety, shall be as follows:

Commencing at the intersection of Third Avenue and Broadway, thence along Broadway to Fourth Avenue, thence along Fourth Avenue to E Street, thence along E Street to Third Avenue, thence along Third Avenue to Broadway, thence along Broadway to Pacific Highway, thence along Pacific Highway to Rosecrans Street, thence

along Rosecrans Street to Taylor Street, thence along Taylor Street to Morena Boulevard, thence along Morena Boulevard to Balboa Avenue, thence along Balboa Avenue and Garnet Street to Mission Boulevard.

IT IS HEREBY FURTHER ORDERED that, in order to effect the above complete route, applicant is hereby authorized:

I. To abandon that portion of its present motor coach Route "C" (Pacific Beach and La Jolla Line), in the City of San Diego, described as follows:

Commencing at the intersection of Silverado and Prospect Streets in La Jolla, thence over Silverado Street, Fay Avenue, Prospect Street, La Jolla Boulevard, Turquoise Street and Cass Street to Garnet Street.

II. To reroute that portion of its Route "C" motor coach line between the present terminus at Front and "B" Streets and the intersection of San Diego Avenue and Taylor Street, over a route described as follows:

Commencing at the intersection of San Diego Avenue and Taylor Street, thence over Rosecrans Street, Pacific Highway, Broadway, Fourth Avenue, "E" Street and Third Avenue to Broadway.

III. To extend its Route "C" motor coach line from the intersection of Cass and Garnet Streets, along Garnet Street to Mission Boulevard.

The certificate of public convenience and necessity, together with all the changes in service authorized hereinabove, shall be 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 within a period of not to exceed six (6) months from the effective date hereof and concurrently with the abandonment of rail service on its No. 16 rail line, as hereinafter authorized.
- (3) Applicant shall file, in triplicate, and concurrently make effective, on not less than ten (10) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect,

shall be identical with the rates and rules shown in the application, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

- (4) Applicant shall file in duplicate, and concurrently make effective, on not less than ten (10) days' notice to the Railroad Commission and the public, 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 or 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, either at the intersections of the streets or by operating around a block contiguous to such intersection in either direction, and to carry passengers as traffic regulations of the municipality may require.

IT IS HEREBY FURTHER ORDERED that applicant is hereby authorized to abandon rail service and to remove and/or dispose of all operative property on its street railway Route No. 16, between the intersection of Kettner Boulevard and Broadway and the northerly terminus of said line at the intersection of Fay and Prospect Streets in La Jolla, the complete description of the portion of the route to be abandoned being as follows:

Commencing at the intersection of Fay Street and Prospect Street in La Jolla, thence along Fay Street to applicant's private right-of-way, thence along a private right-of-way to Electric Avenue, thence along Electric Avenue to a private right-of-way, thence along a private right-of-way to Mission Boulevard, thence along Mission Boulevard to Pacific Avenue, thence along a private right-of-way in Mission Boulevard to and across the Mission Bay Bridge, thence along West Point Loma Boulevard to a private right-of-way, thence along a private right-of-way to Hancock Street, thence along Hancock Street to a private right-of-way, thence along a private right-of-way to Kettner Boulevard, thence along Kettner Boulevard to Broadway;

subject to the following conditions:

- (1) Said discontinuance of rail service shall be made effective concurrently with the establishment of the motor coach service as hereinbefore authorized.
- (2) Applicant shall afford the public at least ten (10) days' notice of the abandonment authorized herein, by posting notices on all cars operating on the line involved and at all stations affected.
- (3) Applicant shall, within thirty (30) days thereafter, advise this Commission, in writing, of the abandonment of the facilities authorized herein and of its compliance with the conditions hereof.

For all other purposes, the effective date of this Order shall be twenty (20) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of February, 1940.

Frank S. Brown
Robert W. ...
H. ...
Justice D. ...
Commissioners.