

ORIGINAL

Decision No. 24867

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAN BERNARDINO VALLEY TRANSIT COMPANY,)
substituted for Richard J. Glasscock,)
B. T. McKissock, J. B. Shepardson,)
Jesse W. Curtis, Jr., and William)
Guthrie, for a Certificate to operate)
a common carrier omnibus service be-)
tween Colton and San Bernardino,)
California.)

Application No. 24432
(Second Amended)

In the Matter of the Application of)
PACIFIC ELECTRIC RAILWAY COMPANY, a)
corporation, for authority to abandon)
and remove tracks and discontinue)
service on the line between San Ber-)
nardino and Colton and to reduce pas-)
senger service on the Arrowhead)
Springs Line.)

Application No. 24434

FRANK KARR and C. W. CORNELL, for Pacific Electric
Railway Company, applicant.

WM. GUTERIE of San Bernardino for San Bernardino
Valley Transit Company, applicant.

H. R. GRIFFIN, City Attorney, for City of San
Bernardino, Protestant.

MARTIN C. CASEY, City Attorney, for City of
Colton, Protestant.

HARRY SEE and W. P. NUTTER for Brotherhood of
Railroad Trainmen, Protestant.

RILEY, COMMISSIONER:

O P I N I O N

On September 3, 1941, Pacific Electric Railway Company (1)
filed Application No. 24434 requesting authority to abandon that
portion of its San Bernardino-Colton local passenger rail line be-
tween the central business district of San Bernardino and Colton,
and to reduce passenger service to one round trip daily on the

(1) Sometimes hereinafter referred to as Pacific Electric.

remainder of the line extending through the northern residential area of San Bernardino. On that same date San Bernardino Valley Transit Company⁽²⁾ filed Application No. 24432 requesting authority to establish local motor coach operations in lieu of the rail service proposed to be abandoned by Pacific Electric.

In the original application of Richard J. Glasscock, et al, filed prior to the change of corporate name to San Bernardino Valley Transit Company, it was proposed to establish one motor coach line to be operated substantially along the same route as the present local rail line of Pacific Electric. The proposed fare was six cents between points within the cities of San Bernardino and Colton, respectively, and ten cents between San Bernardino and Colton.⁽³⁾

On September 25, 1941, Richard J. Glasscock, et al, filed an amended application which, among other things, requested that the corporate name of applicants be changed to San Bernardino Valley Transit Company, and offering a local fare of five cents instead of

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- (2) Originally filed by Richard J. Glasscock, B. T. McKissock, J. B. Sheperdson, Jesse W. Curtis, Jr., and William Guthrie, applicants, and hereinafter sometimes referred to as Valley Transit.
- (3) On September 3, 1941, San Bernardino City Lines, Inc., filed Application No. 24433 seeking a certificate to operate a local motor coach service between San Bernardino and Colton, following substantially the same route as the existing rail line sought to be abandoned herein. It was proposed to employ five 29-passenger Mack motor coaches and two 24-passenger Yellow motor coaches, with additional equipment of size and capacity adequate to meet traffic requirements, at a fare of five cents between any two points within the city boundaries of either San Bernardino or Colton, without transfer, and a fare of ten cents for transportation between the two cities. On October 27, 1941, applicant requested dismissal of Application No. 24433 and by Decision No. 34719, dated October 28, 1941, the request was granted.

six cents, with no change in the ten cent fare between the two cities. By this supplemental application the certificate requested was amplified to include another line to extend from San Bernardino to a point approximately two miles easterly of the corporate limits of that city.

On October 15, 1941, Valley Transit filed a supplemental application requesting permission to sell 250 shares of stock at \$100 per share, the proceeds from which were to be used for purchase of automotive equipment, terminal facilities and working capital.

Hearings were held in these matters in San Bernardino on October 30, 1941, and November 6, 1941, at which Pacific Electric presented evidence in substantiation of its request for discontinuance of rail service, and Valley Transit submitted in detail the plan of operation it proposed to establish in substitution for Pacific Electric rail service. As the hearing progressed it became apparent that applicant Valley Transit was pleading the case of an operation different from that submitted to the Commission in its amended application. The financial exhibit and testimony of witness Glasscock were based upon a local fare of six cents instead of five cents as applied for in the amended application, and upon routing different from that described in the application. Counsel for applicant, upon being confronted with the discrepancy, stated that it was applicant's desire to again amend the application to conform to the evidence submitted at the hearing and that such an amendment would be filed immediately in conformity with the rules of the Commission. On November 27, 1941, the second amended application of Valley Transit was received setting forth the specific plan of operation and fare structure proposed to be placed into effect. This amendment again requested authority to charge local fares in San Bernardino and

Colton of six cents as originally proposed and to effect certain re-routings in the motor coach lines requested in the amended application.

In amplification of the brief statement of the issues involved in these two applications as set forth above, each will be analyzed individually in greater detail below.

PACIFIC ELECTRIC RAILWAY COMPANY-Application No. 24434

The San Bernardino-Colton rail line extends from Arrowhead Springs, located in the foothills to the north of San Bernardino, through the cities of San Bernardino and Colton to a terminus at "J" and Ninth Streets in Colton, a total distance of about 10.6 miles. That portion of the line from Arrowhead Springs to 34th Street and Mountain View Avenue in San Bernardino, about three miles, is devoted exclusively to freight operations. Between 34th Street and Pacific Electric depot on Third Street in San Bernardino, about four miles, both freight and passenger service are conducted. That portion between Pacific Electric depot and the end of the line in Colton, a distance of about four miles, is devoted exclusively to passenger operation.

The City Attorney of the City of San Bernardino stated that the ordinance covering this line provides that if the passenger service is discontinued the Pacific Electric forfeits its right to operate freight trains over the line. To meet this situation the company proposes to operate one round trip in passenger service daily.

The principal commodity handled on the freight line consists of water carried in tank cars from Arrowhead Springs to San Bernardino, thence over applicant's rail line to Los Angeles where it is bottled for domestic use. For the year ending June 30, 1941, there were 673 cars of water transported over this line representing

29,023 tons for which revenue was collected for the account of applicant in amount of \$37,077. Applicant estimates the annual out-of-pocket cost of conducting the freight business to be \$17,006, of which \$11,025 was assigned to the Arrowhead Springs-San Bernardino line, and \$5,981 to the line haul from San Bernardino to Los Angeles. Upon this basis of computation the net income from Arrowhead Springs freight operations for that year amounted to \$20,071. The element of cost of conducting the freight operation, as estimated by applicant, represents only the amount of expense that could be eliminated by discontinuance of the Arrowhead Springs freight traffic.

Analysis of passenger traffic and revenue as submitted by applicant indicates that for the year ending April 30, 1941, passenger earnings in amount of \$48,615.31 were realized through the operation of 294,390 car-miles and the transportation of 764,523 passengers. Against that revenue applicant estimated out-of-pocket costs under present operating conditions to be \$61,597 annually, resulting in a net deficit of \$12,982 from passenger operations. Applicant estimates that over a five-year period the average annual out-of-pocket cost of continued passenger rail service would be \$64,204 and, assuming no change in revenue, an average net loss of \$15,589 annually would be experienced. Combining the financial results of both freight and passenger service applicant estimates a net annual income on the San Bernardino-Colton line on an out-of-pocket basis of \$7,089, which would be increased to \$18,228 by reducing the passenger operations to one round trip daily on the line between San Bernardino and 34th Street.

The local passenger fare structure of Pacific Electric presently in effect consists of a cash fare of seven cents with six-and-one-quarter cent tickets applying between any two points within

either San Bernardino or Colton, and a ten cent fare applying for transportation between the two cities.

Applicant contends that continued rail service will require within the next five years expenditure of \$79,200 for reconstruction of tracks on that portion of the line between San Bernardino and Colton. No estimate was submitted by Pacific Electric to show the probable financial results of operation if motor coaches were substituted by that carrier for the presently operated electric rail line. The record does indicate, however, that Pacific Electric would be required to pay higher labor rates than Valley Transit.

SAN BERNARDINO VALLEY TRANSIT COMPANY-Application No. 24432

San Bernardino Valley Transit Company in its amended application requests authority to establish a motor coach operation for the transportation of passengers over two routes - one between San Bernardino and Colton over the following route:

"Commencing at the intersection of 9th and "J" Streets in the City of Colton, thence along "J" Street, 8th Street, La Cadena Avenue, "C" Street, Colton Avenue, Mt. Vernon Avenue, Second Street, Third Street, "D" Street, Highland Avenue, and Mountain View Avenue to its intersection of 34th Street";

and the other from the central business area of San Bernardino easterly to a point outside the city boundary over the following route:

"Beginning at the intersection of 4th and "F" Streets in San Bernardino, thence along "F" Street, Third Street, Tippecanoe Avenue, thence along Tippecanoe Avenue to a point 1,000 feet south of Cardiff Avenue."

The first described route above follows essentially the present rail line and the second route provides service throughout the major portion of its length to an area not heretofore served by Pacific Electric.

In applicant's exhibit, submitted by Witness Glasscock, it

was estimated that a total annual revenue of \$42,149 would be realized from the proposed motor coach operation, against which an operating expense would be incurred of \$35,638.54, and depreciation expense of \$5,000, leaving a net profit of \$1,510.46. This estimate was based upon transporting 567,500 local passengers at six cents each, and 30,990 intercity passengers at ten cents each. Depreciation expense was computed on the basis of an estimated life of five years on five 25-passenger motor coaches at an estimated purchase price of \$5,000 each. Upon this basis the annual total operating cost per coach-mile would be 11.83 cents.

Applicant also requests authority to sell 250 shares of stock at \$100 per share and to use the proceeds from such sale for the purpose of purchasing the necessary motor coach equipment and terminal facilities, and to provide a working cash fund and pay the costs of incorporation and other expenses in connection therewith. In addition permission is sought to execute and deliver a note and chattel mortgage to the American National Bank in San Bernardino in the amount of \$21,000.60, payable in thirty-six monthly installments of \$583.35 each, the first installment to be due and payable on the first day of March, 1942. Applicant states that it has entered into a contract with the Yellow Truck and Coach Manufacturing Company for the purchase of five 24-passenger transit type GMC yellow coaches, model TG-2405, for the sum of approximately \$25,500, and that it is proposed to borrow from the American National Bank a sum of \$18,750 to pay upon the purchase price of that equipment, the balance of which will be paid from money derived from the sale of stock. The \$21,000.60 represents the sum of \$18,750, plus 4 per cent interest per annum for thirty-six months.

OPPOSITION

The City of San Bernardino did not oppose the substitution of bus service for rail service as proposed herein, but did take the position that if the passenger service was to be discontinued the freight service also should be discontinued on the line between San Bernardino and Arrowhead Springs. In fact the city granted a permit to applicant Valley Transit for bus operation in substitution for rail service. The various ordinances relating to Pacific Electric operations were cited by the city, the most recent being dated March 15, 1937, wherein the city granted to Pacific Electric a franchise for a period of twenty-five years. It is the contention of the city that it has always and consistently granted franchises to Pacific Electric and its predecessors for the operation of electric passenger cars on Third Street, "D" Street, Highland Avenue and Mountain View Avenue in San Bernardino, and that the right to operate the freight service has only been considered incidental thereto. It is the city's position that the freight trains traverse streets through the main business district and the better residential area of San Bernardino and that in the event the application is granted the streets will be devoted to a service foreign to the franchises granted and will constitute a nullification of the contractual obligations entered into by Pacific Electric.

The representatives of the labor organizations with whom the employees of Pacific Electric are affiliated voiced opposition to the proposal to substitute bus for rail operation. The principal contention was that the transfer of operating rights from Pacific Electric to Valley Transit as proposed herein would be adverse to the interests of employees now engaged in conducting the passenger service.

DISCUSSION

The principal issue involved in these proceedings is the determination of whether or not the public interest will be better served by withdrawal by Pacific Electric of its local rail passenger service and the inauguration of a motor coach operation in lieu thereof by Valley Transit. The economic aspects of the present rail operation as provided by Pacific Electric and the service offered by Valley Transit must be given consideration in measuring the comparative ability of the two carriers to best meet the requirements of public convenience and necessity.

The cities of San Bernardino and Colton were each apprehensive of the prospects of Valley Transit to take over the field of local transportation and conduct it on a profitable and enduring basis. The cities contend that the paramount issue is not the selection of a carrier on the basis of corporate entity, but the establishment of an adequate service at reasonable fares by a carrier with sufficient financial resources and operating experience to successfully perform the service to the public on an enduring basis.

At the hearing reference was made to the participation of the Commission's engineering staff in the development of a system-wide rehabilitation program of Pacific Electric's operations in Southern California, wherein it was recommended that certain changes be made in the operations and facilities of that carrier in the San Bernardino area. In connection with that proceeding⁽⁴⁾ the objective of the Commission's staff was to develop a systemwide rehabilitation program which, when applied to the service facilities and operations

(4) Application No. 21656, filed December 17, 1937, and Application No. 23053, filed October 18, 1939.

of Pacific Electric, would result in an improvement of the financial status of that carrier to the extent of obviating the necessity for a general increase in passenger fares. Only the one carrier was before the Commission at that proceeding. It was the conclusion of the Commission's engineers that substantial economies could be effected and improved service afforded the public by the substitution of motor coaches for the local electric street railway system. All the elements of improvement pointed out at that time by the Commission's staff will be realized by the granting of these two applications, plus the additional element of a reduction in local passenger fares.

The Cities of San Bernardino and Colton contended that the estimated annual net profit of slightly over \$1,500 would be insufficient to provide for unexpected fluctuations in traffic volume or costs of operation. Comparison of the exhibits submitted by Pacific Electric with that offered by Valley Transit indicates the estimates contained in the latter to be conservative in computing annual revenue. An annual patronage of only 648,490 fare passengers was used as against 738,857 fare passengers actually transported by Pacific Electric for the twelve-month period ending April 30, 1941. The exhibit of Pacific Electric indicates that during that same period of time 23,020 free passengers were carried on the rail line and that there has been a steady increase in traffic during the months of June to August, 1941, inclusive, as compared with corresponding months of the previous year. Taking these factors into consideration, together with the probable stimulation of some new patronage by reason of the new motor coaches and reduced fare, it is reasonable to expect that the service proposed by Valley Transit will be productive of at least the revenue anticipated by the company.

The record indicates that the annual depreciation allowance

of \$5,000 as estimated by Valley Transit is more than ample based upon the experience of Pacific Electric in the operation of similar equipment and the relatively low annual coach miles to be operated.

The City of San Bernardino was granted the right to file a brief in this matter but did not elect to do so, and the City Council at its regular meeting on November 17, 1941, instructed its attorney not to oppose the plan of Valley Transit to charge a local fare of six cents.

To finance its operations initially, applicant will need, according to the record, the sum of \$27,250 which consists of \$25,500 to purchase the five coaches referred to above, and \$1,750 to provide working capital and materials and supplies and to pay organization costs.

Although the request was made for an order authorizing the issue of \$25,000 par value of a stock and of a note in the principal amount of \$21,000.60, no showing has been made of estimated expenditures exceeding, in the aggregate, \$27,250. Consequently, there is nothing in the record upon which the Commission can base an order authorizing the issues in the amounts requested. In our opinion at least fifty per cent of the investment of \$27,250 should be financed through the issue and sale of stock. The order herein will authorize San Bernardino Valley Transit Company to issue at par 136 shares (par value \$13,600) of stock and a note for \$13,650 principal amount, plus interest at the rate of four per cent per annum, secured by a chattel mortgage on the equipment.

A review of the record in these proceedings impels the conclusion that public interest will be best served by the discontinuance of local rail passenger service between San Bernardino and Colton as presently provided by Pacific Electric Railway Company; reduction of passenger service to one round trip daily on that

portion of the line where joint freight operation is conducted; the establishment by San Bernardino Valley Transit Company of a motor coach system for the transportation of passengers at a basic local fare of six cents and ten cents intercity; and that to provide the necessary funds to establish the required facilities San Bernardino Valley Transit Company should be permitted to sell 136 shares of common stock at \$100 per share, to execute a chattel mortgage and to issue a note in the sum of \$13,650, plus interest at the rate of four per cent per annum.

I herewith submit the following form of order.

O R D E R

Public hearings having been held in the above entitled applications, the matters having been duly submitted, the Commission being fully apprised in the premises, and it having been found as a fact that public convenience and necessity so require:

IT IS ORDERED that a certificate of public convenience and necessity be and it is hereby granted to San Bernardino Valley Transit Company for the establishment and operation of an automotive service for the transportation of passengers as a passenger stage corporation, as such is defined in Section 24 of the Public Utilities Act, between San Bernardino and Colton and intermediate points and between San Bernardino and a point in County territory to the east thereof.

The foregoing certificate is granted subject to the condition that San Bernardino Valley Transit Company, its successors or assigns, may never claim before this Commission or any court or other public body, a value for the authority hereby granted in excess of the actual cost thereof.

IT IS FURTHER ORDERED that, in the operation of said passenger stage service, San Bernardino Valley Transit Company shall comply with and observe the following service regulations:

- (1) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the date hereof.
- (2) Applicant shall comply with the provisions of the Commission's General Order No. 79 and Part IV of General Order No. 93-A by filing tariffs and time schedules in conformity therewith in triplicate within sixty (60) days from the effective date of this order and upon not less than five (5) days' notice to the Commission and the public.
- (3) Subject to the authority of this Commission to change or modify such at any time by further order said passenger stage operation shall be conducted over and along the following described routes:

San Bernardino-Colton Line

Commencing at the intersection of Ninth and "J" Streets in Colton, thence westerly along "J" Street to Eighth Street, northerly on Eighth Street to "C" Street, easterly on "C" Street to Colton Avenue, northeasterly on Colton Avenue to Mt. Vernon Avenue, northerly on Mt. Vernon Avenue to Third Street, easterly on Third Street to "D" Street, northerly on "D" Street to Highland Avenue, easterly on Highland Avenue to Mountain View Avenue, thence northerly on Mountain View Avenue to 34th Street in San Bernardino, and return via the reverse thereof.

East San Bernardino Line

Commencing at the intersection of Fourth and "F" Streets in San Bernardino, thence southerly along "F" Street to Third Street, easterly on Third Street to Tippecanoe Avenue, thence southerly on Tippecanoe Avenue to a point approximately one thousand feet south of Cardiff Avenue in County territory, and return via the reverse thereof.

- (4) Rates of fare to be charged by applicant for a period of not less than six (6) months shall be:
6¢ one-way between any two points in San Bernardino on the San Bernardino-Colton Line;

- 6¢ one-way between any two points on the East San Bernardino Line;
 - 6¢ one-way between any two points in Colton on the San Bernardino-Colton Line;
 - 10¢ one-way on the San Bernardino-Colton Line between any point served in San Bernardino and any point served in Colton;
 - 10¢ one-way between points served by the East San Bernardino Line and points served by the San Bernardino-Colton Line with free transfer.
- (5) Applicant shall commence operations in accordance with the authorization herein provided, immediately after discontinuance of passenger service by Pacific Electric Railway Company as authorized elsewhere herein, in such manner as to cause no interruption in regular service.

IT IS FURTHER ORDERED that Pacific Electric Railway Company be and it is hereby authorized to discontinue all passenger service over and along the route described under Item (1) below, and to reduce passenger service to one round trip daily over and along the route described under Item (2) below, upon not less than five (5) days' notice to this Commission and the public, and to amend in conformity with the rules of this Commission all passenger rate tariffs, time schedules, rules and regulations applying thereto, upon condition that in lieu thereof the passenger stage operation of San Bernardino Valley Transit Company, as herein authorized, shall be commenced immediately after discontinuance of rail service as authorized herein, without interruption of regular service.

- (1) Commencing at a point in Third Street, San Bernardino, at a distance of approximately three hundred fifty (350) feet west of "E" Street, thence westerly on Third Street to Mt. Vernon Avenue, thence southerly on Mt. Vernon Avenue to La Cadena Avenue, southwesterly along La Cadena Avenue to Eighth Street, southerly on Eighth Street to "J" Street, thence easterly on "J" Street to the terminus of the line in Colton.
- (2) Commencing at a point in Third Street, San Bernardino, approximately three hundred fifty (350) feet west of "E" Street, thence easterly

along Third Street to "D" Street, northerly on "D" Street to Highland Avenue, easterly on Highland Avenue to Mountain View Avenue, thence northerly on Mountain View Avenue to 34th Street.

IT IS FURTHER ORDERED that Pacific Electric Railway Company be and it is hereby authorized to abandon and remove, after discontinuance of passenger service thereon as authorized above, that portion of its San Bernardino-Colton local rail line described as follows:

Commencing at a point in Third Street, City of San Bernardino, three hundred sixty-seven (367) feet, more or less, west of center line of "E" Street, Mile Post 0.00, thence single track west on Third Street, eighty hundredths (.80) miles to beginning of double track, thence double track westerly on Third Street eleven hundredths (.11) miles to beginning of single track, thence westerly on Third Street and southerly on Mt. Vernon Avenue one and forty-four hundredths (1.44) miles to beginning of double track, thence double track southwesterly on private right of way nine hundredths (.09) mile to beginning of single track, thence single track southwesterly on private right of way and southerly on Eighth Street and Easterly on "J" Street one and fifty-three hundredths (1.53) miles to end of line in Colton, Mile Post 3.97, together with other appurtenances. A total length of three and ninety-seven hundredths (3.97) miles, all in San Bernardino County, California;

and that the certificate or certificates of public convenience and necessity granted to Pacific Electric Railway Company, its predecessor or predecessors by previous order of this Commission shall, concurrently with the discontinuance and reduction of passenger rail service as authorized herein, be revoked in so far as applying to that portion of the San Bernardino-Colton rail line described under Item (1) of the third ordering paragraph, and restricted to permit of not more than one round trip daily over that portion of the line described under Item (2) of said third ordering paragraph.

IT IS FURTHER ORDERED that San Bernardino Valley Transit Company be and it is hereby authorized, on or before June 30, 1942, to execute a chattel mortgage in, or substantially in, the same form

as the chattel mortgage filed as Exhibit "D" with the second amended application herein, modified to secure the payment of a note not to exceed \$13,650 in principal amount, plus interest at the rate of four per cent per annum; to issue a note in the amount of \$13,650 plus interest at the rate of four per cent per annum, payable in monthly installments commencing the first day of March, 1942, and continuing thereafter until February 1, 1945, on which date the then remaining unpaid balance shall be due and payable; to issue and sell at not less than par for cash, \$13,600 par value of its common capital stock; and to use the proceeds to be received through the issue of the note and stock herein authorized to finance the cost of the five motor coaches to be acquired, to provide working capital and materials and supplies and to pay organization costs. In the opinion of the Commission the money, property or labor to be procured or paid for through the issue of the stock and note herein authorized is reasonably required for the purposes indicated herein and the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS FURTHER ORDERED that San Bernardino Valley Transit Company shall file a report, or reports, as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this order, and that it shall file in addition a certified copy of the chattel mortgage as actually executed under the authority herein granted, such filing to be made within thirty (30) days after execution.

IT IS FURTHER ORDERED that the authority herein granted to execute a chattel mortgage and to issue a note shall become effective when San Bernardino Valley Transit Company has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

The Commission reserves the right to make such further orders in these proceedings as to it may appear just and reasonable, and to revoke this authority in whole or in part if in its opinion public convenience and necessity demand such action.

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.

Except as otherwise provided herein; the effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 16th day of December, 1941.

[Signature]
[Signature]
[Signature]
[Signature]
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(COMMISSIONERS)

