

**ORIGINAL**

Decision No. 35176

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
PACIFIC ELECTRIC RAILWAY COMPANY, a )  
corporation, for an order granting )  
permission to increase and adjust )  
passenger rates and fares for the )  
transportation of persons between )  
points in the State of California. )

Application No. 24656

FRANK KARR, C. W. CORNELL and RANDOLPH KARR, for applicant.

MAX EDDY UTT, Assistant General Attorney, for Los Angeles  
Railway Corporation and Los Angeles Motor Coach Company.

DIETHER AND DELBRIDGE, for Pasadena City Lines and Glendale  
City Lines, interested parties.

AUBREY N. IRWIN, City Attorney, and A. L. LAWSON, Assistant  
City Attorney, for the City of Glendale.

RAY L. CHESEBRO, City Attorney, and GILMORE TILLMAN,  
Assistant City Attorney, for the City of Los Angeles.

K. CHARLES BEAN, Chief Engineer, and STANLEY LANHAM,  
Assistant Engineer, for the Board of Public Utilities  
and Transportation, City of Los Angeles.

HAROLD P. HULS, City Attorney, and S. BURTON NOBLE,  
Assistant City Attorney, for the City of Pasadena.

DAILEY S. STAFFORD, City Attorney, for the City of Covina.

BRAEME E. GIGAS, City Attorney, for the City of South  
Pasadena.

M. TELLEFSON, City Attorney, for the Cities of Culver City  
and Hermosa Beach.

W. E. MAC FADEN, City Attorney, for the City of Redondo  
Beach.

WILLIAM F. ADAMS, for the West Metropolitan Chamber of  
Commerce.

PAUL F. GARBER, City Attorney, for the City of Monrovia.

CHARLES W. LEWIS, Secretary, for the Monrovia Chamber of  
Commerce.

W. P. NUTTER and DON H. SHEETS, for the Brotherhood of  
Railroad Trainmen.

C. H. LOVERING, for Berkeley Benton Improvement Association.

- T. K. RESMEY, for the California Progressives and Public Interest League.
- P. H. LESTER, for the Highland Park Transportation Company.
- E. L. PARKER, Legislative Representative, for Local 1420, United Electrical Radio and Machine Workers.
- S. E. VICKERS, for the City of Long Beach.
- IRVING M. SMITH, City Attorney, for the City of Long Beach.
- LESTER S. READY, for the City of Glendale.
- THOMAS A. BERKEBILE, City Attorney, for the City of Monterey Park.
- JOHN FITZGERALD, for the City of Sierra Madre.
- ERNEST A. TOMPKINS, City Attorney, for the City of Alhambra.

RILEY, COMMISSIONER:

INTERIM OPINION

In the above entitled application filed December 23, 1941, Pacific Electric Railway Company<sup>(1)</sup> seeks authority to increase passenger fares on its rail and motor coach lines serving the Los Angeles Metropolitan Area and numerous other cities in Southern California. Generally the proposed fare structure provides for increases on interurban lines ranging from 10 per cent to 50 per cent, and 40 per cent on the basic local zones of the Los Angeles area. Between those limits there is a wide variation in percentage of increase as applying to token fares, inter-zone fares, round-trip rates, commutation tickets, and school fares. It is applicant's urgent plea that the proposed increases in passenger fares be authorized for immediate application as a means of counteracting the effects of an alleged financial emergency.

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(1) Hereinafter sometimes referred to as Pacific Electric.

Public hearings were held in Los Angeles on January 15, 16, 29 and 30, 1942, concurrent briefs were filed, and oral argument on the question of financial emergency was granted before the Commission en banc in Los Angeles on March 2, 1942. On the latter date that portion of the proceeding relating to the existence or non-existence of an emergency was taken under submission, and is now ready for decision.

Applicant contends that the increase in fares is necessary to offset the effects of an alleged financial emergency created primarily as a consequence of increased wage rates granted its employees effective in part as of June 1, 1941, and in remainder as of September 1, 1941. It is estimated by applicant that the increased labor cost during that portion of 1941 when the new wage rates were effective was \$325,061, including railroad retirement and unemployment taxes applying thereto; that for the year 1942 the increased labor cost due to the higher wage rates will be \$1,276,031; that a further increased cost due to the upward trend of material prices will be incurred during 1942 in amount of \$310,000; and that the summation of such costs during 1942 will aggregate \$1,586,031.<sup>(2)</sup> Upon the basis of present fares it is estimated by applicant that for the year 1942 a net deficit will be experienced in amount of \$2,358,396, and that under the proposed increases that deficit will be reduced to \$1,500,148. The method of computation is as follows:

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(2) Exhibit No. 1 submitted by applicant.

(EXHIBIT NO. 1)

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	<u>With</u> <u>Increase</u>	<u>Without</u> <u>Increase</u>
<u>Railway Operating Revenue:</u>		
Passenger	\$ 8,693,152	\$ 8,158,804
Freight	4,217,400	3,893,000
Other	1,405,000	1,405,000
Total Railway Operating Revenue	<u>\$14,315,552</u>	<u>\$13,456,804</u>
<u>Railway Operating Expenses: Passenger</u>		
Freight and Other	<u>12,638,000</u>	<u>12,638,000</u>
Net Revenue from Railway Operations	\$ 1,677,552	\$ 818,804
Taxes Assignable to Ry. Operations	<u>1,284,000</u>	<u>1,284,000</u>
Net Railway Operating Income	\$ 393,552	\$ (465,196)
Non-Operating Income	<u>150,000</u>	<u>150,000</u>
Gross Income	\$ 543,552	\$ (315,196)
<u>Deductions from Gross Income:</u>		
Interest on Funded Debt	\$ 1,880,900	\$ 1,880,900
Other	<u>162,800</u>	<u>162,800</u>
Total Deductions	<u>\$ 2,043,700</u>	<u>\$ 2,043,700</u>
NET INCOME	<u><u>\$ (1,500,148)</u></u>	<u><u>\$ (2,358,896)</u></u>

( ) = Loss.

On a strictly cash basis, including expenditures for all purposes, the company estimates that with the proposed fare increase in effect cash resources will fall short of cash requirements during 1942 by \$762,248, and that on the basis of existing fares the corresponding insufficiency of funds would amount to \$1,620,996. These amounts include passenger and freight operations and an expenditure of \$1,402,200 chargeable to capital accounts, (3)

(3) Exhibit No. 1-A submitted by applicant.

Numerous other exhibits were submitted, but in the main they were in support of the final results as set forth in Exhibits Nos. 1 and 1-A presented by Mr. O. A. Smith, President of Pacific Electric Railway Company, and referred to above.

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Official representatives of several cities served by lines of applicant, as well as numerous civic groups and individuals, opposed the granting of authority to increase fares particularly on an emergency basis. It was the position of these parties that applicant's showing failed to prove the existence of an emergency, and further that the evidence adduced could not be construed as indicating the necessity for any increase in passenger fares.

At this time the Commission has before it only the matter of determining whether or not Pacific Electric is confronted with a financial emergency that justifies the immediate adoption of increased fares on an interim basis. Restricting the problem to the emergency issue, the elements involved are reduced to a rather simple form. It is not necessary at this time to determine a proper rate of return on a reasonable rate base or to analyze the intricate details of the proposed fare structure.

As applying to the instant application an emergency may be defined as that state of financial condition wherein, upon a cash basis, the carrier cannot procure sufficient funds from earnings or other sources to defray the essential and unavoidable costs of providing a reasonable standard of service over a period of time of such length as to allow for a full and final determination of whether or not applicant is entitled to increased revenue and, if decided in the affirmative, to test the equity of the fare structure

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(L) Los Angeles, Pasadena, Glendale, South Pasadena, Long Beach, Alhambra and Monterey Park.

proposed. An emergency would exist, for example, if the financial status of the carrier were such that insufficient funds were available to meet current payroll costs, in whole or in part, or to meet the interest requirements of outstanding bonds in the hands of the public. Either of these conditions might bring about a complete cessation of operations thereby depriving the public of an essential service and irreparably impairing the ability of the carrier to function as an independent entity. In placing this interpretation upon the term emergency, we must take into consideration all available sources of financial assistance and a reasonable time interval.

The results of the many exhibits presented by applicant and the attendant testimony of witnesses relating to the elements involved are epitomized in Exhibits Nos. 1 and 1-A which present the final estimate of applicant's financial status during 1942 upon the basis of both present and proposed fares. One of the controlling elements of each of these exhibits is the estimated item of revenue, and whether applicant's case stands or falls depends largely upon the dependability of that estimate.

For the full year of 1942 applicant estimates that passenger revenue will increase by 7.69 per cent over 1941 with no increase in fares. In arriving at that average increase it was estimated that there would be an increase of 7.5 per cent in the month of January of 1942 over the same month of 1941. The same witness who presented that estimate later testified that for the first three weeks of January, 1942, the increase has actually been 20.7 per cent, and that the full increase in passenger traffic due to the present shortage and rationing of rubber tires for private automobile use will not materialize until later in the year. This disparity between actual and estimated revenue, if continued

throughout the remainder of the year, would result in an annual revenue far different from that presented by applicant for 1942 under present rates of fare. The actual percentage of increase in passenger revenue for the first three weeks of 1942 indicates a continuation of the upward trend as shown by Exhibit No. 31 submitted by the Commission's witness. That exhibit shows applicant's passenger revenue to have increased consistently month by month during the last nine months of 1941, as compared with corresponding months of 1940, by not less than 14 per cent except during May when it was 11.65 per cent.

Applicant's case breaks down completely by failure of its estimates to even reasonably approach the actual revenue from passenger operations during that period of 1942 for which such figures are now available and of record, and upon the showing made it is impossible to determine the existence of a financial emergency. This discrepancy should not be construed as a reflection upon the ability or sincerity of the estimator, but should be recognized as the pitfall created by rapidly changing conditions during a period of National Emergency.

Before establishment of a final fare structure, which may or may not involve an increase in basic rates, it is recognized that the Commission will require the conclusions and recommendations of its technical staff and other interested parties. The record thus far contains only the affirmative showing of applicant and does not contain the results of the studies or views of those parties opposed to the increase. Before final decision is made in this entire matter the record must be complete on all of these phases. Final decision with respect to the proper ultimate fare structure will be reserved until after a complete record has been developed in this proceeding.

The record as it stands fails to support applicant's contention that it is confronted with a financial emergency, and analysis of the evidence impels the conclusion that an interim increase in passenger fares on an emergency basis should be denied.

INTERIM ORDER

Pacific Electric Railway Company having filed application requesting authority to increase, on an emergency basis, its rates of fare for transportation of passengers, public hearings having been held, briefs filed, and oral argument indulged in before the Commission en banc, the Commission being apprised of the facts and the matter being under submission and ready for decision, in so far as consideration of interim fares is concerned,

IT IS HEREBY ORDERED that the request of Pacific Electric Railway Company for authority to increase passenger fares on an interim basis be and it is hereby denied.

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

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of March, 1942.

Justus F. Palmer  
Way of Wiley  
W. H. A. V.  
Frank X. Stevenson  
Richard S. Backus  
Commissioners