

ORIGINAL

Decision No. 41151

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of	)	
San Diego Electric Railway Company,	:	
a corporation, for an investigation	)	
by the Public Utilities Commission of	:	Application No. 3808
the reasonableness of the rates,	)	(First Supplemental)
charges, rules, regulations and	:	Application for an Order
practices of said corporation in the	)	Vacating Order Creating
Cities of San Diego, East San Diego,	:	Depreciation Reserve
National City and Chula Vista in	)	Fund
San Diego County.	:	
-----	)	

APPEARANCES

Forrest A. Cobb and Morrison, Hohfeld, Foerster, Schuman & Clark, for Applicant; J. F. Du Paul, City Attorney, S. J. Higgins, Assistant City Attorney, and W. H. Lines, Rate Consultant, for City of San Diego, Protestant.

FIRST SUPPLEMENTAL OPINION

In this supplemental application, filed July 2, 1947, San Diego Electric Railway Company requests the Commission to vacate that portion of its order in Decision No. 6836, dated November 14, 1919, which requires the company to establish and maintain a depreciation fund, and to authorize applicant to discontinue said fund.

Public hearing was had in this matter, at San Diego, on August 8, 1947, at which time the City of San Diego appeared as the sole protestant. The matter was submitted subject to the filing of briefs, which have been received, and is now ready for decision.

The depreciation fund in question was established by order of Decision No. 6836, dated November 14, 1919, and later modified by Decisions Nos. 11709, dated February 21, 1923, and 18842, dated September 29, 1927. The first decision ordered the company to

"set aside and pay into a separate depreciation fund monthly the sum of \$18,000. All earnings of the fund from whatever source and to whatever amount shall be added to the depreciation fund. This depreciation reserve fund shall be held and accounted for under the direction of, and shall not be used without the authority of this Commission."

Decision No. 11709, dated February 21, 1923, required the company to deposit monthly in the depreciation fund an amount equal to 1/12 of the annual charge for depreciation in lieu of the \$18,000. Because of the company accruing its depreciation expense on a straight line basis, the company was by Decision No. 18842, dated September 29, 1927, relieved of the obligation of adding to the fund interest earned on moneys or securities in the fund. Since that decision, the interest on the fund has been reported under "Other Income".

Applicant, prior to Decision No. 6836, included in operating expenses an allowance for depreciation in its properties and credited the amounts as provided in the system of accounts to its depreciation reserve. In Decision No. 6836 the Commission questioned the depreciation practices of applicant and fixed, as of the date of the decision, the amount which applicant should include in operating expenses because of accruing depreciation. The amount so included was, as formerly, credited to the depreciation reserve. The decision, however, went one step further and directed applicant to transfer monthly

from its cash account to a depreciation fund a sum equal to its depreciation expense. The amount fixed by Decision No. 6836 as depreciation expense was subject to change from year to year because of the acquisition and retirement of properties. Since 1919 applicant's balance sheets have shown the amount in its depreciation reserve and also the amount in the depreciation fund. As of December 31, 1946, it reports \$7,079,290.34 in its depreciation reserve and \$6,656,468.94 in its depreciation fund. This proceeding does not involve any change or adjustment in applicant's depreciation reserve. We believe that the reserve is adequate. Under the system of accounts no adjustments may be made in the depreciation reserve because of excessive or inadequate accruals of charges for depreciation without making application to the Commission for authority to make the adjustments. The abolition of the depreciation fund does not ipso facto make any changes in the depreciation reserve.

The record shows that applicant has maintained its depreciation fund accounts in accordance with the Commission's order. It has construed such order to mean that the money in the fund could be used only to replace property units worn out or retired by property in kind. At the time of the establishment of the depreciation fund, applicant's operation was entirely that of an electric railway system. Subsequent to that time a major portion of the rail operations have been abandoned and replaced with motor coach service. The most recent major rail abandonment was in June, 1947.

Applicant now operates 304 buses which, during June, 1947, performed 86% of the vehicle miles operated, as compared to

14% by 78 street cars. This transition has completely changed the original plan for which the fund was established in that 60% represents accruals on tracks, equipment, substations, and other rail facilities, and 40% other types of properties. The City of San Diego in Exhibit "1" reports the amount in the depreciation fund on December 31, 1946, at \$6,656,469. It estimates that of this amount \$4,020,582 is "permanently frozen" because rail facilities will not be replaced with like rail facilities, and that \$2,635,887 is available for replacements.

The money in the depreciation fund is presently invested with the J. D. and A. B. Spreckels Company, owner of all of applicant's outstanding stock. The Spreckels Company is paying applicant  $3\frac{1}{2}\%$  interest on such moneys. Applicant urges that if it is required to maintain the depreciation fund, or any part thereof, it should be included in the rate base and applicant be permitted to earn a fair return thereon.

The conditions that gave rise to the Commission's order directing the company to establish and maintain a depreciation fund do not now prevail, and have not for some years past. The record shows that applicant has financed the purchase of equipment without recourse to the depreciation fund. In doing so, and also to maintain in part the depreciation fund, it borrowed money from the J. D. and A. B. Spreckels Company. As of August 31, 1947, it was indebted to that company in the amount of \$3,124,871.82. The testimony shows that if the Commission grants applicant's request it will use money in the depreciation fund to pay such indebtedness. We expect applicant to carry out this commitment.

The witness for the City of San Diego testified that he and the City would oppose the establishment of a depreciation fund initially at this time. In regard to the present fund he testified "I think it was a swell theory in the year 1920 but it is outdated and outmoded and will not work and has not worked and it ought to be abolished." He further testified that the company should use the money now in the fund first, to pay the debt due the parent company and second, the balance should be placed in the general cash account of the company, subject to the proviso that it be used by the company to pay the cost of additions and betterments to its properties or pay the cost of replacement of properties. The City of San Diego in its opening brief took a position consistent with the testimony of its witness, but in its reply brief asks the Commission to deny the company's application. However, the City is willing that the Commission should remove any restrictions heretofore placed upon the fund in so far as such restrictions require moneys in the fund to be used only for the replacing of worn-out property with property of like kind or character.

We have studied the record and briefs submitted by the parties. Section 49 of the Public Utilities Act authorizes the Commission to require a public utility to establish and maintain a depreciation fund. The authority to require the establishment of such a fund implies the authority to disestablish the fund, when such action is in the public interest. We find that it is in the public interest to abolish the depreciation fund of San Diego Electric Railway Company. The continuation of the fund could well have the effect of placing a burden on the rate payers of applicant. It should be understood that by the action taken

herein the company is not being relieved of any of its public utility obligations.

FIFTH SUPPLEMENTAL ORDER

A public hearing having been held and the Commission having considered the evidence submitted at such hearing, and it being of the opinion that the request of San Diego Electric Railway Company should be granted, therefore,

IT IS HEREBY ORDERED that the provisions of the order in Decision No. 6836, dated November 14, 1919, as amended by Decisions Nos. 11709, dated February 21, 1923, and 18842, dated September 29, 1927, requiring San Diego Electric Railway Company to establish and maintain a depreciation fund be, and the same are hereby, vacated and set aside, provided that the company pay its indebtedness to the J. D. and A. B. Spreckels Company at the time the San Diego Electric Railway Company avails itself of the the authority herein granted.

IT IS HEREBY FURTHER ORDERED that this order will become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of January, 1948.

K. E. Murray  
Justice J. Coe  
Justice H. K. Kelle  
Harold P. Kule  
Norman Pottel