

ORIGINAL

Decision No. 41381

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF SACRAMENTO, a municipal corporation,  
Complainant,

vs.

Case No. 4881

CENTRAL CALIFORNIA TRACTION COMPANY, a corporation, SOUTHERN PACIFIC COMPANY, a corporation, SOUTHERN PACIFIC RAILROAD COMPANY, a corporation, and SACRAMENTO VALLEY RAILROAD COMPANY, a corporation,  
Defendants.

- EVERETT M. GLENN, City Attorney, representing the City of Sacramento.
- E. J. FOULDS, for Southern Pacific Company and Southern Pacific Railroad Company, defendants.
- JAMES M. SOUBY, JR., for Central California Traction Company, defendant.
- EVAN J. HUGHES, for American Building Materials Company, Ellis Insulation & Materials, and Sacramento Pumice Brick & Tile Company, protestants.
- SUMNER MERING, for Steiner Lumber Company, protestant.
- FRANK B. DURKEE, for Department of Public Works, interested party.
- EDWARD P. GREEN, Secretary of the State Fair Board, Sacramento, protestant.

O P I N I O N

In this complaint, the City of Sacramento seeks an order of this Commission directing the Central California Traction Company to abandon a portion of its mainline track from a point outside the City of Sacramento where it crosses the line of Southern Pacific Company at Polk Station to a point within the city located at the intersection of Broadway and Alhambra Boulevard. The complaint also prays that the Commission order the Central California Traction Company to connect its line with that of the Southern Pacific Company at Polk Station for the purpose of allowing Central California Traction Company to operate trains and traffic over the line of Southern Pacific Company northerly to a point known as Brighton Station

and thence westerly within the City of Sacramento on the "R" Street line of the Southern Pacific Company to Alhambra Boulevard. (1)

Central California and Southern Pacific each filed answers to the complaint, each asking the Commission to dismiss the complaint upon the ground that jurisdiction to authorize or direct either the abandonment of rail service or the joint use of track facilities, as prayed for in the complaint, rests solely with the Interstate Commerce Commission. The answer of Central California also pointed out that some of the track facilities over which the City asks it to operate from the junction of "R" Street and Alhambra Boulevard to Broadway are owned by the Sacramento Northern Railway Company, and that the complaint is defective in that the last mentioned railroad company is not made a party defendant. The Commission did not act upon the motions to dismiss, but set the complaint for hearing. A public hearing was held in Sacramento on September 24, 1947, at which time evidence was introduced and the matter was submitted upon the filing of briefs. Briefs were filed by the City and by the defendant railroads. A brief was also filed on behalf of three building material companies who protested the abandonment of rail service by Central California.

Central California operates a rail line between Stockton and Sacramento. It is owned jointly by Southern Pacific Company, Western Pacific Railroad Company, and The Atchison, Topeka and Santa Fe Railway Company. It was formerly an electric railroad, but is now powered by diesel locomotives. It interchanges freight with the Santa Fe at Stockton, and with Southern Pacific and Western Pacific at Sacramento. Central California's line enters the southern boundary of the City at Stockton Boulevard and thence runs in a northwesterly direction on Stockton Boulevard, Second Avenue, and on Broadway to its intersection with Alhambra Boule-

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(1) The Complainant in this case will generally be referred to in this opinion as the City, and the defendant, Central California Traction Company, as Central California. Southern Pacific Company when used herein will refer also to Southern Pacific Railroad Company and the predecessor, the Sacramento Valley Railroad Company.

ward, from which point it follows "X" Street westerly to Front Street. Stockton Boulevard and also a portion of Broadway are parts of state highway U. S. 50.

The City produced testimony to show that the present condition of Central California's track along much of its route within the city creates a hazardous and dangerous condition. It was shown that the traffic on Stockton Boulevard is in excess of 20,000 vehicles daily and that the operation of trains along this highway slows the flow of traffic and presents a hazard to motor vehicles. A witness for the State Department of Public Works testified that it was undesirable to permit railroad train operations on a main highway artery. The City Engineer of Sacramento testified that in his opinion the cost of reconstructing the tracks of Central California along its present route within the city in order to place the street in a reasonably safe condition would considerably exceed the cost of removing the tracks and repaving the street.

The City requests the Commission, upon directing Central California to abandon its existing tracks, to order the joint use of Southern Pacific's "R" Street tracks to the intersection of that street with Alhambra Boulevard, from which point Central California would make joint use of the track of Sacramento Northern Railway on Alhambra Boulevard and "X" Street to the water front. Central California now operates jointly with Sacramento Northern over the "X" Street track only.

Southern Pacific introduced evidence in support of its contention that it could not adequately handle the traffic now routed over its "R" Street tracks if it were to permit Central California to operate trains over this line. Evidence was introduced by certain industries now located on the tracks of Central California to show their need for continued rail service and their dependence upon the rail service rendered by this rail carrier. Evidence introduced through the Planning Commission of the City was to the effect that existing zoning ordinances have restricted further business development along Central California's line on Alhambra and Stockton Boulevards, and it is expected that this southern section of the city will develop primarily as a residential rather than an industrial area.

The California State Fair Grounds also is dependent upon Central California for rail service. No evidence was presented to indicate the feasibility of extending spur tracks from the existing "R" Street line of Southern Pacific to reach either the existing industries or the State Fair Grounds now served by Central California's line.

The City contends that the Commission possesses authority to require the defendant rail carriers to rearrange their facilities and operations as prayed for in the complaint. The carriers argue, and likewise the protestant shippers, that the evidence presented is wholly insufficient to sustain a finding that abandonment of the rail service would be consistent with the public interest. The carriers also renew their motions to dismiss, asserting that they could not legally adopt the plan of operation demanded by the City unless they first be authorized by the Interstate Commerce Commission to do so.

After consideration of the evidence and arguments presented, it is the conclusion of this Commission that the complaint should be dismissed. Inasmuch as the defendants are interstate rail carriers, they are prohibited by provisions contained in the Interstate Commerce Act from abandoning any mainline track facilities or from entering into any agreement for the joint use of track facilities without authorization given by the Interstate Commerce Commission. The order which the City asks the Commission to make is not dissimilar from that made in the Los Angeles Union Station case which was reviewed by the Supreme Court of the United States (264 U.S. 331). In that case the Commission's order required the abandonment of certain tracks and the joint use of others. With respect to such changes in the facilities of the carriers involved, the Supreme Court said that they "require a certificate of the Interstate Commerce Commission as a condition precedent to the validity of any action by the carriers, or of any order by the State Commission."

Apart from the question whether this Commission may issue any order against the defendant carriers preliminarily to action upon the same subject matter by the Interstate Commerce Commission, we are of the opinion that the evi-

dence presented is insufficient to justify an order permitting the abandonment of Central California's rail line within the city. Until a plan is developed by means of which other adequate rail service can be afforded the shippers now dependent on the maintenance of Central California's line, it cannot be found that the discontinuance of such rail operations would be in the public interest.

ORDER

A public hearing having been had in the above entitled complaint, the evidence considered, and basing its order upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that the complaint of the City of Sacramento be and hereby is dismissed.

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

Dated at San Francisco, California, this 30<sup>th</sup> day of March, 1948.

R. J. [Signature]  
Justice F. Coe  
Irving H. [Signature]  
Harold P. [Signature]  
[Signature]

Commissioners.