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Decision No. 50745

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Jose City Lines, Inc., requesting authority to increase certain of its rates of fare.)	Application No. 35264

John F. Balaam and George H. Hook, for applicant.
Robert J. Costello, for City of San Jose, interested party.
R. E. Morgan and J. F. Base, for City of Santa Clara, interested party.
Eugene F. Foley, for David Bohannon Organization, interested party.
W. E. McCartin, in propria persona, interested party.
William R. Roche and John L. Pearson, for the Commission's staff.

O P I N I O N

San Jose City Lines, Inc. is a passenger stage corporation engaged in the transportation of passengers within and between the Cities of San Jose and Santa Clara and between those cities and adjacent areas. The fare structure for these operations is based upon three fare zones. The present fares are 10 cents cash for transportation within any one zone and 15 cents and 20 cents cash for the respective interzone movements. Tokens are offered at the rate of three for 25 cents and one token is accepted in lieu of 10 cents cash. For school children, the fares are $1 for 20 intrazone rides and $1.20 for 20 interzone rides.[1] By this application, filed March 19, 1954, the company seeks authority to raise the present intrazone fare to

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[1] The present fares were established under authority of Decision No. 46889 of March 25, 1952 (51 Cal. P.U.C. 551).

11 cents cash and the interzone fares to 16 cents and 21 cents cash, without tokens being offered. Authority also is sought to increase the 20-ride school fares to $1.20 for movement in any one zone and $1.60 for interzone movements.

A public hearing of the application was held at San Jose on June 9, 1954, before Examiner Henry Jacopi.

Earning Position

Applicant alleges that substantial advances in the cost of operation, particularly wages, and a steady drop in the traffic volume have rendered the earnings from the present fares inadequate and that additional revenue is needed to sustain the operations. According to studies of applicant's books presented at the hearing by the company's treasurer, net revenue of $68,282 after provision for income taxes was earned in the year 1953 from operations under the present fares. The operating ratio after taxes was 91.9 per cent. An independent study of the accounting records for the 12-month period ended March 31, 1954, was introduced by a transportation engineer of the Commission's staff. He developed that the operations during this more recent period under the present fares produced net revenue of $46,521 after provision for income taxes. The corresponding operating ratio was 94.13 per cent.

Estimates also were presented by the two witnesses showing the financial results of operation anticipated if the present fares were continued in the future 12-month period ending June 30, 1955, and also what the results would be if the increased fares sought by applicant in this proceeding were charged during that time. As summarized from the exhibits offered by the witnesses, the estimated results are shown in the tabulation which follows.

TABLE No. 1

Estimated Results of Operations Under Present and Proposed Fares for 12-Month Period Ending June 30, 1955

	Applicant		Commission Engineer	
	Present Fares	Proposed Fares	Present Fares	Proposed Fares
Operating Revenues				
Passenger	$696,935	$820,725	$708,702	$837,247
Special Bus	21,200	21,200	24,350	24,350
Advertising	9,000	9,000	9,400	9,400
Other Revenue	300	300	850	850
Total Operating Revenues	$727,435	$851,225	$743,302	$871,847
Operating Expenses				
Equipment Maintenance and Garage Expense	$105,735	$105,735	$104,170	$104,170
Transportation	368,050	368,050	362,580	362,580
Traffic and Advertising	3,200	3,200	3,110	3,110
Insurance and Safety	59,520	59,520	48,060	48,060
Administrative and General	43,935	43,935	42,740	42,740
Depreciation	70,110	70,110	70,130	70,130
Operating Taxes and Licenses	67,480	70,305	60,497	62,303
Total Operating Expenses	$718,030	$720,855	$691,287	$693,093
Net Before Income Taxes	9,405	130,370	52,015	178,754
Income Taxes(1)	2,545	63,905	21,657	89,994
Net After Income Taxes	$ 6,860	$ 66,465	$ 30,358	$ 88,760
Rate Base	$292,985	$292,985	$291,965	$291,965
Rate of Return	2.34%	22.69%	10.40%	30.4%
Operating Ratio After Taxes	99.1 %	92.2 %	95.9 %	89.8%
Bus Miles	1,728,680	1,728,680	1,721,000	1,721,000

(1) Federal income taxes were calculated on tax rates aggregating 52 per cent.

The principal differences in the foregoing estimated operating results are in the forecasts of the anticipated revenue and in the estimated cost of public liability and property damage insurance, in the franchise tax paid to the City of San Jose and in the additional expenses involved in an extension of one of applicant's routes. The revenue estimate of applicant's treasurer based upon the experience of past years was not substantiated. Instead, the staff engineer's higher estimate, which reflects reasonable adjustments of past experience for recent changes in traffic flow and distribution, will be used for the purpose of this decision.

In regard to the operating expenses, the public liability and property damage insurance premiums are paid on the basis of a percentage of the gross revenue subject to adjustment in accordance with the accident experience. The staff engineer's estimate reflects the average annual cost actually experienced and will be used in this matter. The city franchise tax, the record shows, normally is based upon two per cent of the gross revenue from all motor coach operations within San Jose. Evidence was introduced by applicant showing that the rate of tax was reduced by ordinance to one per cent for a one-year period ending October 13, 1954, and that thereafter the rate in question would revert to the specified basic rate of two per cent. However, the Commission takes official notice of the adoption of Ordinance No. 4509 dated October 15, 1954, by the Council of the City of San Jose, under which the franchise tax for applicant's operations within San Jose is being continued at the reduced rate of one per cent for a further period of one year. For the purpose of this decision, the franchise tax will be calculated accordingly.

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Another difference in the expense estimates resulted from the added cost of rerouting and extending one of applicant's routes being provided for by the treasurer but not by the staff engineer. No estimate of the anticipated patronage was developed, however, and no provision therefor was made in the revenue figures. In seeking the authority for the route change in a separate proceeding, Application No. 35494, applicant alleged that the extension involved a distance of only nine-tenths of a mile and indicated that additional traffic was available. It appears that the revision of the route would cause but little, if any, change in the estimated operating results of record and need not be given effect in the absence of revenue estimates.

According to applicant's treasurer, if the proposed fares are granted the company is prepared to undertake a program costing about $6,000 per year designed to maintain its earning position through stimulation of bus patronage. One of applicant's patrons suggested that it also consider offering to the public a weekly ticket without limitation as to the number of rides as a means of encouraging bus riding.

Service Matters

A detailed study of the service being provided to the public by applicant was presented at the hearing by a transportation engineer of the Commission's staff. The study included a comprehensive review of the frequency of the schedules operated each day and of the passenger loads on the buses at maximum load points. Those data were developed for the various routes operated. The engineer concluded from his study that the schedule frequency was adequate for the present volume of traffic in the areas served and that the number of standees on the average during the peak periods was not excessive. In addition, he found that the buses were clean and generally in good mechanical condition.

The city manager of Santa Clara asserted that the service being provided by applicant was inadequate and that a survey should be made to determine the character and extent of the transportation requirements of the territory. He introduced evidence relative to the rapid growth of Santa Clara and of the scope of newly developed residential areas. In addition, a real estate broker and a representative of a builder engaged in residential development projects testified regarding the steady increase in the number of residences in the El Camino and Westwood tracts, respectively, situated in Santa Clara. They maintained that applicant should provide needed transportation service through extensions of certain of its routes into these tracts.[2]

Applicant's superintendent of transportation testified that the company had considered the matter of service to the areas in question about one year ago and had concluded that the prospective patronage was insufficient to warrant extension of the existing routes. The conclusion was based, he said, upon a survey made of the number of existing houses and of those under construction or being contemplated. The Commission was furnished recently with a report of the further survey of the area which it was agreed at the hearing applicant would make. The survey covered a total of ten residential developments in Santa Clara and included a count of the number of occupied homes and those under construction and the number

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2 Applicant filed Application No. 35884 on October 22, 1954, seeking a certificate of public convenience and necessity authorizing the extension of its Route No. 7 into the Westwood tract area. In the circumstances, no action is necessary on the request for the service made herein.

of automobiles in the areas.[3] The company has concluded from the facts contained in its detailed report that the sought service extensions are not practical nor warranted at this time and should be deferred until the areas in question are more fully developed. According to the report, "in practically every instance the streets leading into the areas are on the perimeters of the tracts with many of the streets within the tracts becoming dead-end streets because of intervening orchards and any extensions at this time would result in operating a large number of miles through unproductive territory." The report shows also that many of the homes are situated within one-quarter mile of applicant's existing routes or are located in territory already served by routes of either Peerless Stages, Palo Alto Transit or Pacific Greyhound Lines.

When considered in the light of the company's detailed survey, the testimony of record relative to the need for service in newly developed residential areas does not afford an adequate basis

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[3] The company furnished the Commission with a detailed report covering the El Camino, Junipero Gardens, Santa Clara Gardens, Scott Lane Gardens, Sunny Brae, West Claire, Mariposa Gardens, Westwood, Willow Crest and Stevens Creek Road residential tracts. In general, the report shows that Scott Lane Gardens, Mariposa Gardens and West Claire tracts are in preliminary stages with many of the streets still unpaved. The latter two tracts are adjacent to applicant's existing route one. Most homes in Sunny Brae tract are from one-quarter to seven-tenths of a mile from route one. The Willow Crest tract largely is served by route seven. The Stevens Creek Road area is served already by Peerless Stages and Palo Alto Transit. Junipero Gardens and Santa Clara Gardens assertedly are small tracts each having but one access road from the highway which present impracticable operating conditions. Assertedly, extension of existing routes at this time into the El Camino tract involves enlargement of loop routes which would remove existing service from some areas and increase running times and discourage the existing patronage at the heavily populated intermediate points which would not be compensated for by the additional traffic which might be developed by the requested route extension.

for concluding on this record that the requested extensions are warranted under current conditions. The Commission wishes to make clear that it is concerned with the maintenance of adequate service to the public. To warrant adoption, however, service proposals must be practical and be shown to have a reasonable chance of being sustained by the patronage. The present patrons should not be burdened with higher fares or suffer from service curtailments or impairments made necessary by premature or other nonsustaining extensions to newly developed areas.

Notices of the hearing in this proceeding were duly posted in applicant's vehicles and were published in newspapers of general circulation in the areas involved. In addition, the Commission's secretary sent notices of the hearing to persons and organizations believed to be interested. No one specifically opposed the granting of the sought increases in fares.

Conclusions

One of the significant conditions disclosed by the record in this proceeding is the decline in patronage of applicant's lines in recent years. In our opinion, continual advances in fares do not provide a reliable solution to applicant's revenue needs. We find the company's proposal to undertake a business promotion plan to stem the loss of patronage and to attract additional traffic to be in the public interest and we are including $6,000 in the adopted estimated operating results for this purpose. The company is expected to develop a suitable plan and to prosecute it vigorously. It will be required to render to the Commission a detailed quarterly report of its business promotion activities.

Upon providing in the operating expenses for the cost of the aforesaid plan and for the San Jose franchise tax on the reduced

Revised

basis, the results of operation anticipated for the test year under the present and proposed fares are summarized in Table No. 2 below.

TABLE No. 2

Adjusted Estimates of Operating Results Under Present and Proposed Fares for 12-Month Period Ending June 30, 1955

	Present Fares	Proposed Fares
Revenues	$743,302	$871,847
Operating Expenses	697,287	699,093
Net Before Income Taxes	$ 46,015	$172,754
Income Taxes(1)	18,425	86,765
Net After Income Taxes	$ 27,590	$ 85,989
Rate Base	$291,965	$291,965
Rate of Return	9.4%	29.5%
Operating Ratio After Income Taxes	96.3%	90.1%

(1) Federal income taxes based on rates aggregating 52 per cent.

The evidence of record is persuasive that the present fares would not provide a safe margin between the revenues and operating expenses during the rate year and that an upward adjustment of the present fares is needed. The increased fares sought by applicant, however, are higher than necessary or reasonable and would produce earnings that are not justified on this record. Needed additional revenue would be produced, however, by adopting in lieu of applicant's proposal an increase of the existing token rate of fare of 3 tokens for 25 cents to the level of 5 tokens for 45 cents with no changes being made in the existing adult cash fares nor in the 20-ride school fares. Under the fare structure as so adjusted, the estimated annual operating results would be as shown in Table No. 3. It should be pointed out that the reduced franchise tax on applicant's operations recently adopted by the San Jose city authorities makes it possible for the Commission to hold the amount of the fare increase being authorized herein to a level lower than that otherwise necessary.

TABLE No. 3

Estimated Annual Operating Results Under
the Increased Fares Being Authorized Herein

Revenues	$771,571
Operating Expenses	697,684
Net Before Income Taxes	$ 73,887
Income Taxes(1)	33,500
Net After Income Taxes	$ 40,387
Rate Base	$291,965
Rate of Return	13.8%
Operating Ratio After Income Taxes	94.8%

(1) Federal income taxes based on rates aggregating 52 per cent.

The seemingly high rate of return results from the fact that the depreciated rate base on which it is calculated now amounts to only 28.8 per cent of the original book cost of the properties devoted to the service. The record shows, however, that the operating equipment is in good condition and rendering satisfactory service. In the judgment and opinion of the Commission, the rate of return resulting from the use of a rate base comprised mainly of substantially depreciated book cost of applicant's properties is unrealistic and distorted because of the fact that such cost does not reasonably represent the reasonable use value of the equipment. It is our opinion that if such value were provided for in the rate base the rate of return in the test year would approximate 9.7 per cent under the increased fares authorized herein. The Commission is of the opinion and finds that this latter rate of return more appropriately indicates the actual situation existing than is portrayed by the rate of return calculated merely upon the depreciated book costs and that the operating results under the increased fares authorized are reasonable under the circumstances involved in this proceeding.

As previously stated, the continuing rapid growth of residential areas in the San Jose-Santa Clara area is expected to require additional and improved transit service in the near future. The earnings anticipated from the authorized fares are needed to maintain applicant in position to discharge its service obligations to the public. The rate increase being authorized, however, should not be taken as a precedent. The situation existing is a particular one which requires special treatment. Ratepayers are not obligated to make capital contributions to a utility under the guise of a rate increase. However, the utility should be granted such rates as will afford it an opportunity to earn a reasonable return on its lawful investment.

The financial history of this applicant indicates that it has obtained a reasonable reward for the public service it has furnished in the past. However, excessive past earnings of a utility may not be recaptured by the imposition of confiscatory rates for the future nor may inadequate past earnings be compensated for by the authorization of excessive rates for the future. Nevertheless, it is the duty of a regulatory body to investigate carefully the financial history of a utility and to take into consideration its past earnings as one of several elements in arriving at a conclusion as to the proper rates which should be prescribed for the future. This rule is elementary. It is based both upon logic and the law.

San Jose City Lines, Inc. is a California corporation organized on or about December 23, 1909, originally being known as San Jose Railroads. At one time its outstanding stock and its first mortgage bonds were owned by Southern Pacific Company. On or about April 1, 1939, however, that company sold such stock and bonds, along with stock and bonds of San Jose and Santa Clara County Railroad Company (an inactive affiliated company), and those of certain other companies to Pacific City Lines, Inc. for a base consideration of $310,000 cash, plus the assumption of $324,000 of San Jose and Santa Clara County Railroad Company bonds then outstanding in the hands of the public. No allocation of the purchase price was made among the several property acquisitions. Subsequently, Pacific City Lines, Inc.

transferred the stock of San Jose City Lines, Inc. to National City Lines, Inc. The bonds of San Jose City Lines, Inc. now in the amount of $895,000, came into the possession of San Jose and Santa Clara County Railroad Company.

The financial position of San Jose City Lines, Inc. as of March 31, 1954, as revealed by its balance sheet appearing in Exhibit No. 1, is as follows:

TABLE No. 4

Assets		
Current assets:		
Cash	$167,546	
Other current assets	48,948	
Total current assets		$216,494
Carrier operating property:		
Cost	$707,792	
Depreciation reserve	(414,232)	
Net carrier operating property		293,560
Intangible capital and deferred charges		11,175
		$521,229
Liabilities and Capital		
Current liabilities		$106,696
Equipment obligations		74,650
Bonds and capital:		
First mortgage bonds	$895,000	
Common stock	100,000	
Deficit	(655,117)	
Total bonds and capital		339,883
		$521,229

(Red Figures)

Although applicant's balance sheet shows a deficit of $655,117, it is clear that this figure is not a true indication of applicant's earning experience under the present management. On April 1, 1939, applicant's accumulated deficit was $1,194,213. Between that date and March 31, 1954, a period of 15 years, applicant's net profits aggregated $598,596, of which $383,500 was distributed as dividends, and it realized book credits of $324,000 through the elimination of its liability with respect to the bonds of San Jose and Santa Clara County Railroad Company. These circumstances resulted in a reduction of the accumulated deficit from

$1,194,213 to $655,117. The amount of the improvement in the deficit position is $539,096.

A summary of the results of operations of San Jose City Lines, Inc. for the last five years from its annual reports is as follows:

TABLE No. 5

12 Mos. Ended Dec.31	Revenue Passengers	Mileage Operated	Operating Revenues	Gross Income*	Capital Investment**	Return on Capital
1949	12,702,890	1,948,952	$834,392	$ 73,336	$491,661	14.9%
1950	11,532,968	1,906,975	761,825	56,134	453,843	12.3
1951	10,333,192	1,873,152	738,630	47,153	471,990	10.0
1952	9,350,417	1,857,619	825,265	105,162	523,467	20.0
1953	9,117,893	1,840,012	844,538	66,036	465,151	14.2

* Net carrier operating income less provision for income taxes.
** Includes long-term debt, capital stock and deficit at end of year.

Thus it clearly appears from a review of applicant's financial returns that the present ownership, since its acquisition of the property in 1939, has been successful in its operation of applicant's lines and has suffered no loss on its investment in San Jose. It has improved its equity position, it has withdrawn $383,500 in dividends, it has maintained and added to its equipment without additional investment other than earnings from operations and it has developed a financial structure which includes cash and current assets of $216,494 as compared with liabilities, other than bonds, of $181,346.

As previously indicated, applicant has taken the position after conducting a survey that extensions of routes into certain areas are not warranted at this time. Other evidence of record, as well as the survey, serves to demonstrate that the San Jose-Santa Clara area is experiencing unusually rapid growth and that substantial numbers of homes under construction in newly developed residential tracts near the existing routes will be completed in the near future. It shows also that further large scale construction activities are planned for other tracts in the area. Applicant is advised that it is expected to keep in close touch with these developments and to arrange on its own initiative for such additional service as is reasonably required as soon as it appears that sufficient traffic might be available to cover the direct or out-of-pocket cost of the service.

Upon careful consideration of all of the facts and circumstances of record the Commission is of the opinion and hereby finds that increased fares to the extent provided for in the order which follows are reasonable and justified and that in all other respects applicant's proposals have not been justified. In view of the fact that the fare adjustment herein authorized is predicated in part upon the bus mileage to be operated applicant will be required to obtain the Commission's approval before making any reductions in the service provided on its lines.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that San Jose City Lines, Inc. be and it is hereby authorized, on not less than five days' notice to the Commission and to the public, to increase the token rate of fare now provided in its Local Passenger Tariff No. 10, Cal. P.U.C. No. 10, to the level of five tokens for 45 cents with one token being accepted in lieu of 10 cents cash on one zone and two zone movements, and that no change shall be made in any of the other fares named in the said tariff.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

IT IS HEREBY FURTHER ORDERED that applicant be and it is hereby directed to develop and undertake an aggressive business promotion plan and to render a report to the Commission at the end of each three-month period after the effective date of this order showing detailed expenditures of the amount provided for the plan together with a brief description of the activities undertaken or programmed.

IT IS HEREBY FURTHER ORDERED that applicant shall not reduce or curtail any of the schedules or services on any of the routes as shown in its published timetable during the month of September 1954 without first obtaining the approval of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects Application No. 35264 be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that applicant be and it is hereby directed to post and maintain in its vehicles a notice of the increased fares herein authorized. Such notice shall be posted not less than five days prior to the effective date of such fares and shall remain posted for a period of not less than thirty days.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 4th day of NOVEMBER, 1954.

Peter E. Mitchell
President

Justus F. Craemer

Kenneth Potter

[illegible] Huggins

Ray E. Untereiner
Commissioners