

Decision No. 53791**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SOUTHERN PACIFIC COMPANY to discontinue )  
 the operation of passenger trains ) Application No: 36995  
 Nos. 229 and 246 between Oakland Pier )  
 and Sacramento, California. )

Charles W. Burkett, Jr., for Southern Pacific Company,  
 applicant.

Graham R. Mitchell, for the Brotherhood of Locomotive  
 Engineers; John J. Garvey, Jr., Assistant to the  
 City Manager, for the City of Richmond; G. W. Ballard  
 for the Brotherhood of Railroad Trainmen; Fred G. Seig  
 and Gordon C. Larkin for the Order of Railway Conductors  
 and Brakemen; William V. Ellis for the Brotherhood of  
 Locomotive Firemen and Enginemen, and Arthur M. Brink  
 for the Brotherhood of Locomotive Firemen and Enginemen,  
 protestants.

Harold J. McCarthy and James K. Gibson for the Commission  
 staff.

O P I N I O N

On May 27, 1955, the Southern Pacific Company filed its application herein seeking authority to discontinue the operation of passenger Trains Nos. 229 and 246 between Oakland Pier and Sacramento, which trains are presently operated with self-propelled equipment as required by Decision No. 47161 issued May 13, 1952. In its application, applicant pointed out that said decision contained a reference to an estimate by the Commission staff that the operation of these trains with self-propelled equipment would result in a net operating loss to applicant of \$19,000 per year, and that said decision, as supplemented by Decision No. 47276 issued June 17, 1952, expressed the conclusion that, notwithstanding said loss, public convenience and necessity required the prescribed operation of the trains.

Public hearings were held before Commissioner Dooley and Examiner Silverhart in San Francisco on October 31 and November 1 and 7, 1955. Oral argument was held before said Commissioner and Examiner

in San Francisco on December 9, 1955, at which time the matter was taken under submission. On March 13, 1956, the Commission issued its order setting aside submission for the purpose of receiving additional evidence. On May 15, 1956, the Commission issued its order denying applicant's petition for reconsideration of the order setting aside submission. The further public hearing was held in San Francisco on July 9, 1956, before Commissioner Dooley and Examiner Cline, and on said date the matter again was taken under submission.

#### Results of Operation

Applicant's Exhibit No. 17 shows the results from operations of applicant's Pacific Lines passenger and allied services for the years 1947 to 1954, inclusive, and applicant's Exhibit No. 18 shows the estimated results from operation of applicant's passenger and allied services within the State of California for the same period. The following tabulations are taken from these exhibits:

#### Passenger and Allied Services

<u>Calendar Year</u>	<u>Pacific Lines Net Railway Operating Losses</u>	<u>Net Adjusted Losses from Operations within California</u>
1947	\$17,747,203	\$ 1,500,817
1948	24,559,618	5,711,305
1949	34,660,302	9,204,783
1950	30,528,335	12,286,147
1951	37,987,618	14,074,508
1952	37,052,200	10,452,937
1953	45,919,301	14,951,140
1954	51,140,679	17,355,131

No separation study has been made to show the net operating results from California intrastate passenger operations.

Applicant's Exhibit No. 28 shows that the combined monthly revenues on Trains 229 and 246 have ranged from a high of \$5,880.74 for the month of July, 1954, to a low of \$2,638.04 for the month of June, 1956. May of 1954 is the first full month for which

revenues on these trains are available and June of 1956 is the latest month for which such revenue figures have been computed. Since the commencement of the operation of Trains 229 and 246 with a self-propelled Budd car, the combined revenues on these two trains for each full month of operation have been lower than the corresponding month or months during the preceding year or years of operation with such Budd-car equipment.

Applicant's Exhibit No. 20, introduced in evidence on November 7, 1955, shows the annual results of operating Trains Nos. 229-246 using R.D.C. (Budd-car) equipment for the year ending August 31, 1955. The annual results for the year ending May 31, 1956, and the estimated annual results for the year ending May 31, 1957, based on the apparent downtrend in traffic, appear in applicant's Exhibits Nos. 34 and 36 which were introduced at the July 7, 1956, hearing. The annual results for these three periods are tabulated as follows:

	<u>Year Ending August 31, 1955</u>	<u>Year Ending May 31, 1956</u>	<u>Year Ending May 31, 1957</u>
*Revenues	\$ 50,100	\$ 43,200	\$ 35,500
Estimated Out-of-Pocket Cost	<u>96,100</u>	<u>105,800</u>	<u>105,800</u>
Loss	\$ 46,000	\$ 62,600	\$ 70,300

\* Actual for years ending August 31, 1955, and May 31, 1956, and estimated for year ending May 31, 1957.

The estimates of annual operating results submitted by the Commission staff witness appear in Exhibits Nos. 21 and 41 as follows:

	<u>Revenues Based on Year Ending August 31, 1955</u>	<u>Revenues Based on Year Ending May 31, 1956</u>
Operating Revenue	\$ 50,100	43,150
Operating Expense	<u>80,521</u>	<u>80,521</u>
Deficit	\$ 30,421	\$ 37,371

Evidence submitted by the applicant shows that the downtrend in traffic on Trains Nos. 229 and 246 is not limited to these trains but that it is indicative of the general traffic pattern on all applicant's passenger trains which are operating between San Francisco and Sacramento and intermediate points.

In addition to the loss of revenue due to decline in passenger traffic, the mail contract has been lost by the San Francisco-Sacramento trains to applicant's trucking subsidiary, Pacific Motor Trucking Company. This will result in an additional loss to applicant's passenger train revenues of about \$62,000 annually. As no mail has been handled by Trains Nos. 229 and 246, the loss of the mail contracts will not affect the revenues of these two trains.

Suggested Further Utilization of R.D.C. Equipment

Train No. 229 leaves Sacramento daily at 11:25 a.m. and arrives at Oakland Pier at 1:24 p.m., and Train No. 246 leaves Oakland Pier at 3:25 p.m. and arrives at Sacramento at 5:25 p.m. The same R.D.C. equipment is used on both schedules. These schedules result in a lay-over of the equipment in Sacramento of approximately 18 hours.

The Commission staff witness testified that greater utilization of the R.D.C. car through its use on two round-trip schedules rather than one round-trip schedule between Oakland and

Sacramento would result in further substantial savings in costs to applicant. For example, the Budd car might also be used either on the Senator or the El Dorado.

Applicant's Exhibits Nos. 35 and 37 show the annual results of operating Trains Nos. 229 and 246 using R.D.C. equipment after making adjustments to provide for two round trips per day as follows:

	<u>Year Ending May 31, 1956</u>	<u>Year Ending May 31, 1957</u>
*Revenues	\$ 43,200	\$ 35,500
Estimated Out-of-Pocket Cost	<u>95,500</u>	<u>95,500</u>
Loss	\$ 52,300	\$ 60,000

\*Actual for year ending May 31, 1956, and estimated for year ending May 31, 1957.

These adjusted results of operation are only for Trains Nos. 229 and 246, which would provide just one of the round trips per day. No consideration has been given to the results of operation of the hypothetical trains providing the second round trip per day.

Exhibit No. 22 introduced by the Commission staff witness shows the number of revenue passenger tickets honored by the trains operating between Oakland Pier and Sacramento for the week of September 12 to 18, 1955, inclusive. The staff witness stated that this week was selected by applicant. He further testified that this week was free from abnormal influences such as holiday or State Fair traffic and that it was a representative week.

A witness for applicant stated that he had compared the number of passengers shown on Exhibit No. 22 with statistical data maintained by applicant which also shows the number of passengers handled during a seven-day period in September of 1955, and that the data are not in agreement. For that reason he concluded

that the data on Exhibit No. 22 may not be representative. The table below is prepared from Exhibit No. 22 and the testimony of applicant's witness.

<u>Train Number</u>	<u>Revenue Passengers During Week of September 12 to 18, 1955</u>	<u>Average Number of Passengers Handled During Seven-Day Period in September, 1955</u>
<u>El Dorado</u>		
247	274	280
248	<u>269</u>	<u>304</u>
Total	<u>543</u>	<u>584</u>
<u>Senator</u>		
223	228	434
224	<u>146</u>	<u>458</u>
Total	<u>374</u>	<u>892</u>
<u>Governor/Statesman (Budd Car)</u>		
229	238	279
246	<u>250</u>	<u>279</u>
Total	<u>488</u>	<u>558</u>
<u>Passenger/Sierra</u>		
226	106	Not
241	<u>122</u>	Shown
Total	<u>228</u>	

Applicant also handles a substantial number of pass holders on its trains operating between Oakland Pier and Sacramento, particularly on Fridays, Saturdays and Sundays. As pointed out by counsel for applicant in his oral argument, the other trains operating between the Oakland Pier and Sacramento, such as the Senator and the El Dorado, by reason of these pass riders, carry more passengers on week ends than could be carried by a single Budd car. They also haul storage cars for express and move deadhead rail equipment which cannot be handled by the Budd car. On the morning train from San Francisco to Sacramento and on the evening train from Sacramento to San Francisco, snack and lounging facilities are necessary to hold the traffic that applicant now has on those trains. If the Commission grants this application, it is applicant's hope that the passengers now using the Budd car will use applicant's other passenger trains, thereby offsetting to some extent the loss of patronage on the other trains which operate between San Francisco and Sacramento.

If applicant is permitted to discontinue Trains 229 and 246 as requested, applicant proposes to operate the R.D.C. car between San Rafael and Eureka as Northwestern Pacific Trains Nos. 3 and 4. Such operation will result in a better utilization of the R.D.C. equipment than is now the case on Trains 229 and 246. ✓

Adequacy of Alternate Service

The Southern Pacific Company has eleven daily passenger trains other than Trains Nos. 229 and 246 in each direction between the Oakland Pier and Sacramento, or between the Oakland Pier and intermediate points. Six of these trains in each direction go the entire distance between Oakland Pier and Sacramento.

Western Pacific operates one daily train and one triweekly train in each direction between San Francisco and Oakland, on the one hand, and Sacramento, on the other hand.

Pacific Greyhound Lines operates 33 daily bus schedules eastbound between San Francisco or Oakland, or San Francisco and Oakland, on the one hand, and Sacramento, on the other hand. Twelve of these schedules are express schedules. Of the 35 daily bus schedules operated westbound by Pacific Greyhound Lines between Sacramento, on the one hand, and Oakland or San Francisco, or Oakland and San Francisco, on the other hand, fifteen are express schedules.

Service is provided between Sacramento and Oakland and San Francisco via Rio Vista and Walnut Grove by Continental Trailways Bus System. Daily airline service between Sacramento and Oakland and San Francisco is provided by Southwest Airways and United Airlines.

One of applicant's witnesses described the highway facilities which exist between the San Francisco area and Sacramento. U.S. Highway 40 [except across the Carquinez Bridge] is now a four-lane highway or better for the entire distance between San Francisco and Sacramento. The portion of the highway from the end of the Yolo Causeway into Sacramento has recently been improved practically as a freeway. The Richmond bottleneck will be eliminated by the construction of a new six-lane highway for a distance of about six miles. A new bridge parallel to the Carquinez Bridge also is being constructed. Applicant's Assistant Vice President testified that this improved highway and the availability of the private automobiles are among the factors which have resulted in applicant's local trains which operate between San Francisco and Sacramento receiving so little patronage.

The Commission staff witness in Exhibit No. 21 indicates that there are certain combinations of origins and destinations between which no convenient alternate public transportation is available. The two situations to which reference is made are (1) travel between Crockett, Port Costa and Martinez, and (2) travel between Martinez, on the one hand, and Suisun, Davis and Sacramento, on the other, where the trip by bus requires the passenger to take a round-about route and transfer at Pinole.

The distance from Martinez to Port Costa is 2.1 miles and the distance from Port Costa to Crockett is 3.6 miles, a total of 5.7 miles from Martinez to Crockett.

Exhibit No. 10 shows that between Martinez and Crockett service is provided by nine passenger trains each way every day, other than the Budd car. Of the nine eastbound passenger trains, one also stops at Port Costa, and of the nine westbound, two stop at Port Costa.



Port Costa had a population of 587, according to the 1950 census. Exhibit No. 29 shows that a daily average of one passenger boards Train No. 229 and a daily average of less than one passenger leaves Train No. 229 at Port Costa. There is a daily average of one passenger both on and off Train No. 246 at Port Costa.

Other than Trains Nos. 229 and 246, applicant has six daily trains in each direction between Martinez and Suisun, six daily trains in each direction between Martinez and Davis, and five daily trains in each direction between Martinez and Sacramento. On Trains Nos. 229 and 246, an average of one person per day moves between Martinez and Sacramento in each direction and an average of less than one person per day moves between Martinez and each of the other two cities of Suisun and Davis in each direction.

Pursuant to instructions from the City Council of the City of Richmond, an assistant to the City Manager appeared to protest the discontinuance of Train No. 246 on the ground that its removal would leave the City of Richmond with no eastbound train service to Sacramento and intermediate points between the hours of 11:55 a.m. and 9:05 p.m.

Exhibit No. 30 shows that a daily average of one plus passengers use Train No. 246 from Richmond. Exhibit No. 12 shows that there are eleven Pacific Greyhound Lines bus schedules from Richmond to Crockett Junction, Fairfield, Dixon, Davis and Sacramento between the hours of 11:55 a.m. and 9:30 p.m.

No other public authority or users of the service appeared in opposition to the discontinuance of the operation of these trains.

#### Conclusion

The Commission must, in every decision, keep the public interest uppermost in mind. No public utility service can be discontinued without some inconvenience to some members of the public.

In the instant case, however, the slight inconvenience must be compared with the public benefit to be achieved by the reduction of the railroad passenger deficit. The Commission is well aware of the seriousness of the continuing railway passenger deficits and the burden on freight rates which has resulted therefrom. The public interest requires that passenger deficits be reduced, whenever this can be done consistent with the needs of the passenger patrons, to avoid any unnecessary burden on the patrons of the freight service.

In the instant case, applicant has fully sustained its burden of proof. It has demonstrated conclusively that, even after the elimination of one train in each direction, there will remain a clear sufficiency of service for those members of the public desirous of using public transportation. The matter of determining which of its pairs of trains it should discontinue is a matter in the first instance for determination by the railroad management. Then authority to execute such determination must be obtained from this Commission. No one has suggested in this proceeding that applicant discontinue the operation of any trains other than Nos. 229 and 246. Rather, the applicant has pointed out various operating advantages to be had by the retention of its other local trains operating between Oakland Pier and Sacramento and the discontinuance of Trains Nos. 229 and 246. It has also disclosed plans to make more effective use of the Budd car if it can be made available for such other service. Applicant is required, in order to sustain its burden of proof, fully to justify the discontinuance for which it seeks authority. This it has done. This Commission should not substitute its own discretion for that of railroad management unless the record shows that such action is required to protect the public interest. The record herein does not require this Commission to

modify the determination of railway management; rather, it justifies the granting of the authority requested.

This application already has been taken under submission twice by this Commission. All parties have had ample opportunity to develop a full and complete record. Applicant has shown that the out-of-pocket losses resulting from the operation of Trains 229 and 246 are substantial and have been increasing. The reduction of service is proposed not only to eliminate the losses arising from the operation of these trains but also in anticipation that traffic on applicant's other passenger trains between San Francisco and Sacramento will be increased. The record shows that the alternate service presently existing is adequate to serve the needs of the public. The Commission is of the opinion and hereby finds that public convenience and necessity no longer require applicant to operate its passenger Trains Nos. 229 and 246 between Oakland Pier and Sacramento and that applicant's request for authority to discontinue the operation of said passenger trains should be granted.

O R D E R

A public hearing having been held in the above-entitled proceeding, the matter having been submitted and based upon the evidence of record and the conclusions and findings set forth in the preceding opinion,

IT IS ORDERED:

(1) That Southern Pacific Company, the applicant herein, is hereby authorized to discontinue the operation of its passenger Trains Nos. 229 and 246 between Oakland Pier and Sacramento and intermediate points.



I dissent.

Preliminarily, I would like to observe that a railroad which seeks to withdraw passenger service linking important cities has the burden of proving that such action is consistent with the public interest. The Southern Pacific Company has failed to sustain its burden of proof in this proceeding.

Public convenience and necessity constitute the standard by which a matter of this kind must be judged.

Further, when a public utility proposes to discontinue a service that is being utilized consistently by the public, it is incumbent upon it to show that it has considered various alternate methods of serving the public and has arrived at a plan that may be reasonably considered to result in a minimum inconvenience to the public and concomitantly secure the desired operating economies. This, the applicant has failed to do.

In resolving this matter, we must ever keep in mind that a railroad performs a function of the state and that the privilege of operating as a railroad carries with it collateral obligations, one of which is to serve the public even though some of the service may be operated at a loss. (Alabama Public Service Commission v. Southern Railway Co., 341 U.S. 341, 347, 95 L.ed. 1002, 1007.) Furthermore, it must not be forgotten that deficits deriving from passenger service are taken into consideration when fixing freight rates, both interstate and intrastate. (King v. United States, 344 U.S. 254, 97 L.ed. 301.) Indubitably, the several freight rate increases (both interstate and intrastate) which the railroads of the nation have received since the close of World War II reflect the passenger deficits which these carriers have sustained and are now sustaining. In other words, these passenger deficits are buried in these freight

rate increases. Thus, it ineluctably follows that any substantial abandonment of passenger service would, necessarily, raise a question as to the reasonableness or lawfulness of present freight rates. It would be inequitable for railroads to use passenger deficits as a justification for increasing freight rates and then destroy that justification by abandoning the passenger service which occasion such deficits. Then, too, it must be noted that from the evidence adduced in this matter it is impossible for this Commission to judge the efficacy of the alleged passenger deficit because no separation study has been made to show applicant's operating results from California intrastate operations.

The record shows that there are three other pairs of local trains operating between San Francisco and Sacramento in addition to the Budd car. These are Nos. 223 - 224 (the "Senator"), Nos. 247 - 248 (the "Eldorado"), and Nos. 226 - 241. The Budd car carries more passengers than any of these trains with the exception of the "Eldorado".

EXHIBIT NO. 22

<u>Trains</u>	<u>Passengers per Week September 1955</u>
Eldorado #247 - 248	543
Senator #223 - 224	374
Budd Car #229 - 246	488
Pass./Sierra #226 - 241	228

The passenger revenues derived from the Budd car are almost equal to those collected from the "Senator" and "Eldorado". The company made no showing as to the results of operations on the trains other than the Budd car, in fact it sought to exclude any reference to such information. However, Decision No. 47161 (May 13, 1952), which ordered the Southern Pacific Company to purchase the Budd car, indicated an annual deficit for the 12-month period ending March 31, 1951, of \$275,000 for the "Senator", the "Eldorado", and Trains

Nos. 229 - 246, of which \$105,000 represented the loss on Trains Nos. 229 - 246 under steam operation. It is reasonable to conclude that the deficits on the "Senator" and "Eldorado" today are substantially greater due to the declining passenger revenue and the loss of the United States mail contracts. The operating costs charged to Trains Nos. 226 - 241 are undoubtedly higher than those charged to the Budd car due to the fact that they are operated with a locomotive and conventional passenger cars rather than being self-propelled as is the Budd car. We may compare said deficits with that estimated by the Commission staff of \$37,371 for the year ending May 31, 1956, for the Budd car (Exhibit No. 41). It would appear that the company has chosen to discontinue that train which ranks second in the amount of travel, and has by far the smallest deficit.

In other words, this application, if granted will inconvenience more people and provide less financial relief to the applicant than many other plans that might be proposed. If the Commission finds that this particular train, with its present level of patronage and annual deficit, is not required to serve the public, then the Commission would be almost forced to grant similar applications to abandon all of the remaining Sacramento - San Francisco trains.

Actually, conditions today are little different than those predicted in Decision No. 47161, which resulted in instituting Budd car service in 1954. The deficits on Trains Nos. 229 - 246 have been very materially decreased as predicted. The number of passengers carried on these two trains increased almost 50 per cent when the Budd car was substituted for the old steam trains, and even today they are 20 per cent higher than they were with the steam operation. A comparison of the annual passenger revenue collected on the Budd trains with that collected on the "Senator" and "Eldorado" shows

even more striking results, as revealed in the table below (from Exhibit 21):

Train No.	Passenger Revenue		Percentage Change
	12 Months Ended		
	March 31, 1951	August 31, 1955	
223-224	\$73,540	\$48,750	-33.7
247-248	81,264	51,783	-36.3
229-246	47,646	50,106	+ 5.2

This Commission might, with considerable reason, be accused of acting in a frivolous and capricious manner when we order a public utility to make a considerable investment in new equipment and then after less than 3 years' use, when the results are revealed to be substantially as predicted by us, we find that public convenience and necessity do not require the continued operation of this equipment. I am not unmindful of the problem of the passenger deficit which is facing many of the railroads in this state. With respect to the San Francisco - Sacramento service, it may well be that economies and perhaps abandonments of certain trains are indicated but I feel that the Southern Pacific Company should present a plan to this Commission covering all of their San Francisco - Sacramento trains, rather than attacking the problem on a piecemeal basis as has been done in this case.

If the Commission so desired, in order to broaden the approach to this problem, it could activate Case No. 5234, an investigation on the Commission's own motion into the sufficiency of passenger train service of Southern Pacific Company between Sacramento and San Francisco and other points in California. Or, the Commission could deny the application without prejudice and suggest that the applicant present a plan for all the San Francisco - Sacramento service.

*I concur in  
the foregoing dissent.  
R. Hardy,  
Commissioner.*

*John E. Mitchell*  
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Commissioner