

ORIGINAL

Decision No. 55469

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC ELECTRIC RAILWAY COMPANY,)
 a corporation, for revision of the)
 terms of the trackage agreement with)
 Metropolitan Coach Lines as presently)
 fixed by Decision No. 51980.)
) Application No. 38745

E. D. Yeomans, for Pacific Electric Railway Company,
 applicant.

Waldo K. Greiner and James K. Lyons, for Metropolitan
 Coach Lines, protestant.

Roger Arnebergh, City Attorney; T. M. Chubb, Chief
 Engineer and General Manager, Department of
 Public Utilities and Transportation, City of
 Los Angeles, by T. V. Tarbet, interested party.

John L. Pearson, for the Commission staff.

O P I N I O N

The Pacific Electric Railway Company requests authority herein to revise the terms of a trackage agreement with Metropolitan Coach Lines.

A public hearing was held before Examiner Grant E. Syphers on April 23, 1957, in Los Angeles, at which time evidence was adduced and the matter submitted. The parties were given permission to file briefs, the last of which was filed on June 24, 1957, and the matter is now ready for decision.

By Decision No. 48923, dated August 4, 1953, this Commission authorized the sale by Pacific Electric of its rail passenger facilities to Metropolitan. The parties were authorized

to enter into this sale under the terms of an agreement dated March 10, 1953, subject to conditions and revisions stated in said Decision.

Subsequently, by Application No. 37107, Pacific Electric and Metropolitan applied to this Commission for approval of the terms of an agreement dated June 21, 1955, providing for the rental by Metropolitan of certain rail facilities and cars from Pacific Electric. By Decision No. 51980, dated September 19, 1955, the Commission permitted Metropolitan to pay Pacific Electric an annual rental of \$18,000 for the use of rail passenger cars and to make an annual contribution of \$32,000 towards the ad valorem taxes assessed against and paid by Pacific Electric.^{1/}

The instant application requests that the foregoing payments be revised, it being the position of Pacific Electric that they are not reasonable in amount. The evidence presented shows the facilities involved and financial data pertinent to the use of these facilities.

Exhibit 1 is a map showing the location of the facilities involved. It should be noted that Metropolitan is operating four rail passenger services which are designated as the Bellflower, Long Beach, San Pedro and Watts Lines. The rail facilities used in these services are the ones herein concerned.

^{1/} The conditions and rental were further modified by Decision No. 54293 issued December 18, 1956, in Application No. 38581, which authorized Pacific Electric to sell to Metropolitan the rail passenger cars and the electrical facilities used by Metropolitan. The effect of Decision No. 54293 was to eliminate the car rental of \$18,000 annually, and to reduce Metropolitan's tax contribution to \$29,000.

Exhibit 4 is a series of photographs showing sections of these facilities. In addition to the particular facilities used, Metropolitan is permitted to use one of the main switching yards of Pacific Electric known as Fairbanks Yard. Exhibit 6 is a map of this property.

The valuation of the rail facilities used, including Fairbanks Yard, according to applicant and as set out in Exhibit 5, amounts to \$3,019,048. The exhibit further sets out the valuation of the right of way and land as \$3,673,200 based on current prices. (The record shows the original cost was \$527,436.) It then proceeds to compute the amount which applicant believes should be chargeable to Metropolitan by taking 5 percent of the valuation, which 5 percent amounts to \$334,612.40. Applicant estimated that one-half of this amount, a sum of \$167,306.20, should be chargeable to Metropolitan.

In addition, Pacific Electric contends that Metropolitan's portion of ad valorem taxes on the jointly used rail lines amounts to \$30,559, rather than the \$29,000 previously agreed to.

In summary it is contended that the total payment should include the sum of these taxes and the rental as above computed, amounting to \$197,865.

In support of this allocation, evidence was submitted to show the amount of maintenance cost apportioned to each of the two companies. These maintenance costs are chargeable on a ton-mile basis, according to the use of the facilities. Based upon this method Metropolitan paid \$255,195 for 1956 out of a total cost of \$572,084.61. These figures are set out in Exhibit 8.

In further support of its contention that the payments should be increased, Pacific Electric presented Exhibit 9 showing that on the four rail lines herein concerned Metropolitan derived gross revenue of \$2,078,426 for the year 1956.

Metropolitan presented no testimony, but moved to dismiss the application on the ground that no change in position between the parties since the date of Decision No. 51980 (supra) had been shown. This motion was joined in by a representative of the City of Los Angeles. A representative of the staff of this Commission contended that no significant changes had been disclosed.

The problem before us in the instant proceeding, therefore, involves a present-day look at the existing rental arrangements with the view of determining whether conditions have changed sufficiently since the issuance of Decision No. 51980 (supra) to justify adjustment of the rental, or whether such rental arrangements should, in equity, now be revised.

In Decision No. 51980 (supra) we took notice of the benefits and obligations of Metropolitan and Pacific Electric as indicated by the following:

"In making these findings we are aware of the benefits which are accruing to Metropolitan Coach Lines through the use of these rail facilities, and of the moneys it is paying to Pacific Electric Railway Company, totaling \$473,000 annually, including the taxes of \$32,000. We are also aware of the benefits which are accruing to Pacific Electric Railway Company as a result of the sale, including the moneys it is receiving from Metropolitan Coach Lines.

"The fact that the rail facilities involved are, for the most part, jointly used by the two companies under an arrangement whereby Metropolitan Coach Lines contributes a substantial share for track maintenance, and for the electrical overhead facilities, presents a further compelling reason as to why such an arrangement is neither inequitable nor confiscatory to Pacific Electric Railway Company."

Also in connection with the sale of the rail cars and the electrical facilities to Metropolitan, authorized by Decision No. 54293 (supra), factors which were considered, among others, were a resulting income tax saving for Pacific Electric of approximately \$480,000, and a reduction in Metropolitan's operating expenses in maintenance of electrical facilities of approximately \$30,000 per year.

The record shows little change in the situation other than those conditions referred to in Decision No. 54293. In addition there are other pending matters^{2/} which may have significant effects on the operation of Metropolitan and its relationship with Pacific Electric.

However, the question of rental for Fairbanks Yard is one which justifies further consideration. This facility is used exclusively by Metropolitan and is being held by Pacific Electric for the benefit of Metropolitan's passenger operations which puts it in a different light than those facilities which are being used jointly

^{2/} Applications Nos. 37570 and 38626 by Metropolitan which request Commission authority to operate motor coach equipment on the Bellflower and San Pedro Lines. Also, this Commission takes official notice of the recent legislation creating the Metropolitan Transit Authority.

by the two parties. We are of the opinion that equity now justifies the payment by Metropolitan of a fair rental for the continued use of Fairbanks Yard. Pacific Electric contends that a fair rental is between \$6,000 and \$12,000 annually. We find and conclude that an additional annual rental of \$8,000 to cover said Fairbanks Yard is fair and reasonable.

Another specific question raised by Pacific Electric in this proceeding is that of participation by Metropolitan in connection with capital expenditures for grade crossing protection on the jointly used tracks. Because conditions vary from crossing to crossing in this problem, we find and conclude that a determination as to the benefits and obligations of each party should be made for the particular situation in question as it may hereafter arise, rather than to issue a present over-all decision based on the limited facts available on this record.

In light of the present conditions and facts, we now find no reason for changing the provisions of Decisions Nos. 51980 and 54293 (supra) except to authorize the additional annual rental of \$8,000 for Fairbanks Yard. In making this finding we are well aware that these arrangements cannot continue indefinitely into the future and we wish to make it clear that they apply only between Metropolitan and Pacific Electric pending further order of the Commission. In any event, however, they shall be terminated when, as and if the Metropolitan Transit Authority should assume the operation of these passenger facilities. The payments which we permitted in Decisions Nos. 51980 and 54293 (supra), which we reaffirm, and the additional rental for Fairbanks Yard are based upon the operations of the two public utilities involved and the background of the situation in the light of present conditions.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED:

(1) That the motion to dismiss the application is denied.

(2) That Pacific Electric Railway Company be, and it hereby is, authorized to charge Metropolitan Coach Lines an annual rental of \$8,000 per year for the use of Fairbanks Yard, in addition to the payments previously authorized in Decision No. 51980, dated September 19, 1955, and Decision No. 54293, dated December 18, 1956.

(3) That in all other respects the application herein is denied.

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

Dated at Los Angeles, California, this 27th day of August, 1957.

President
Paul J. [unclear]
B. [unclear]

E. Lynn Fox

Commissioners
Peter E. Mitchell
Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.