

ORIGINAL

Decision No. 57488

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 NORTHWESTERN PACIFIC RAILROAD COMPANY)
 to discontinue the operation of) Application No. 39660
 Trains Nos. 3 and 4 between San)
 Rafael and Willits.)

Randolph Karr, Charles W. Burkett, Jr., and G. Edward Goodwin, for Northwestern Pacific Railroad Company, applicant.
Leonard M. Wickliffe, Alternate Legislative Representative, for California State Legislative Committee, Order of Railway Conductors and Brakemen; James E. Howe, for G. W. Ballard, State Representative, Brotherhood of Railroad Trainmen, George B. Argall, for Brotherhood of Locomotive Firemen and Enginemen, Lodge 817; William V. Ellis, for California State Legislative Board, Brotherhood of Locomotive Firemen and Enginemen; Richard B. Maxwell, for the City of Santa Rosa; C. Scott Gordon, Evert Person and Scott O'Leary, for Santa Rosa Chamber of Commerce; G. R. Mitchell, for Brotherhood of Locomotive Engineers; Albert Pedrazzini, for Loleta Chamber of Commerce; R. F. Denbo, for the Eureka and Fortuna Chambers of Commerce and the Humboldt County Board of Trade; and J. C. Ellis and E. A. McMillan, for California State Legislative Committee, Brotherhood of Railway Clerks, protestants.
George A. Marshall, Sr., for Novato Chamber of Commerce; and A. R. Linn, in propria persona, interested parties.
William C. Bricca and William Peters, for the Commission staff.

O P I N I O N

On December 23, 1957, applicant filed its application requesting authority to discontinue the operation of its Trains Nos. 3 and 4 between San Rafael and Willits.

Public hearings were held before Commissioner C. Lyn Fox and Examiner Wilson E. Cline at San Rafael on March 5, 1958, and

before Examiner Cline at San Rafael on March 6, at Willits on March 7, and at Eureka on March 11 and 12, 1958. The matter was taken under submission on March 24, 1958 on the filing of closing statements.

On July 1, 1958, the Commission issued its order setting aside submission and requiring further hearing. The further hearings were held in San Francisco before Commissioner Fox and Examiner Cline on July 30, 1958, and before Examiner Cline on July 31 and August 1, 1958. At the close of the hearing on August 1, 1958, the matter was again taken under submission.

Description of Present Passenger Train
Service between San Rafael and Eureka

Northwestern Pacific Train No. 4 operates northbound from San Rafael to Eureka three days a week, on Mondays, Thursdays and Saturdays. Train No. 3 operates southbound from Eureka to San Rafael, likewise on three days a week, on Sundays, Tuesdays and Fridays. The distance traveled is 267 miles in each direction. Passengers desiring to use the service in or out of San Francisco can avail themselves of a connecting bus service operated by the Western Greyhound Lines.

The present passenger train service was instituted on June 2, 1956, pursuant to Decision No. 52991 issued by this Commission on May 1, 1956, in Application No. 37294. When the triweekly daylight service was inaugurated the elapsed running time between Eureka and San Rafael was 10 hours and 30 minutes. On the present reduced schedule the train requires 9 hours and 30 minutes southbound and 9 hours and 35 minutes northbound.

The usual consist of these trains is one diesel power unit, one baggage car, and one or two coaches depending on the

anticipated volume of traffic. The coaches are lightweight, stainless steel, streamlined, air-conditioned chair cars with extra long picture windows. Three of these lightweight chair cars are exclusively assigned to these operations, the third car being held for protection in case of bad order of either or both the other chair cars.

At the time the triweekly service was inaugurated, the baggage car was completely reshopped. Special quarters were provided in the baggage car for a news agent so that he could sell sandwiches, coffee, cool drinks, cookies and other items to passengers in the chair cars.

During the period June 2, 1956 to December 31, 1957, between San Rafael and Eureka, an average of 40 revenue passengers per trip used Train No. 3 and an average of 43 revenue passengers per trip used Train No. 4. Of the 40 revenue passengers per trip using Train No. 3, an average of 29 traveled between San Rafael and Willits and an average of 33 traveled between Willits and Eureka. Of the 43 revenue passengers per trip using Train No. 4, an average of 31 traveled between San Rafael and Willits and an average of 33 traveled between Willits and Eureka. Exhibit No. 11 shows that during this same period revenue traffic wholly between Willits and San Rafael averaged only 4.06 passenger miles per train mile.

Description of Proposed Service

Applicant herein seeks authority to discontinue the passenger train service between Willits and San Rafael but proposes to continue its passenger train service between Willits and Eureka on the same general basis as now operating.

Exhibit No. 3 shows the present and proposed schedule including those of Western Greyhound Lines between San Francisco and Willits. The present and proposed schedules at selected points are as follow:

		<u>Present Schedule</u> Operates Mon., Thurs. and Sat.		<u>Proposed Schedule</u> Operates Mon., Thurs. and Sat.	
		<u>W.G.L.</u> No. 696 A.M.		<u>W.G.L.</u> No. 4316 A.M.	
San Francisco	Lv.	7:15	-	-	8:55
San Rafael	Ar.	8:00	-	-	-
		<u>N.W.P.</u> No. 4 A.M.			
San Rafael	Lv.	8:05	9:00	9:00	10:15
Santa Rosa	Ar.	9:03	10:09	10:09	10:30
Santa Rosa	Lv.	9:03	-	-	10:30
				<u>P.M.</u>	
Ukiah	Ar.	10:44	-	-	12:11
Ukiah	Lv.	10:44	-	-	12:45
Willits	Ar.	11:50	-	-	1:35
				<u>N.W.P.</u> No. 4 P.M.	
Willits	Lv.	12:05	-	-	1:45
Dos Rios		1:10	-	-	2:50
Island Mountain		2:21	-	-	4:01
South Fork		4:05	-	-	5:45
Scotia		4:41	-	-	6:21
Fortuna		5:07	-	-	6:47
Eureka	Ar.	5:40	-	-	7:20
		<u>Present Schedule</u> Operates Sun., Tues. and Fri.		<u>Proposed Schedule</u> Operates Sun., Wed. and Fri.	
		<u>N.W.P.</u> No. 3 A.M.		<u>N.W.P.</u> No. 3 A.M.	
Eureka		7:15		10:05	
Fortuna		7:48		10:38	
Scotia		8:12		11:02	
South Fork		8:48		11:38	
				<u>P.M.</u>	
Island Mountain		10:30		1:20	
Dos Rios		11:43		2:33	
		<u>P.M.</u>			
Willits	Ar.	12:47		3:37	
				<u>W.G.L.</u> No. 415	
Willits	Lv.	1:01		3:47	
Ukiah	Ar.	2:02		4:27	
Ukiah	Lv.	2:02		4:42	
Santa Rosa	Ar.	3:46		6:20	
Santa Rosa	Lv.	3:46		6:35	
San Rafael	Ar.	4:45		8:14	
		<u>W.G.L.</u> No. 695			
San Rafael	Lv.	4:50	-	-	7:55
San Francisco	Ar.	5:35	-	-	-

At the further hearings applicant offered testimony to the effect that it would be feasible to operate a self-propelled Budd car between Willits and Eureka and that an operation with such equipment would result in even greater savings than the originally proposed operation with conventional equipment.

Applicant's witnesses testified that it would not be feasible to operate a self-propelled Budd car between San Rafael and Willits because of insufficient braking power on the grades between these points. A witness for the Commission staff testified that in his opinion the adequacy of the braking power could not be satisfactorily determined until an actual test of the brakes of the Budd car had been made. He further suggested that if the brakes proved inadequate they could be made adequate by modifying them. The representative of the Brotherhood of Locomotive Firemen and Enginemen moved that an actual test of the operation of the Budd car on grades be made by the parties concerned, namely, the applicant, the Southern Pacific Company, the Budd car manufacturer, and this Commission. The motion was taken under submission.

Alternate Service Available

Between San Rafael and Willits applicant's railroad is closely paralleled by an excellent highway, a good portion of which is four-lane or freeway. Western Greyhound Lines has five daily schedules over this highway between San Francisco and Willits, six daily schedules between San Francisco and Ukiah, and seven daily schedules between San Francisco and Cloverdale. Western Greyhound Lines also operates 22 additional local schedules between San Francisco and Santa Rosa. The two intermediate cities of Santa Rosa and Ukiah are also served by commercial air line.

In contrast, north of Willits applicant's railroad and U. S. Highway 101 are separated in many places, particularly in the Eel River Canyon where adequate all-year highways are not available. Applicant proposes to continue to provide triweekly service between Willits and Eureka with certain minor modifications in existing schedules to facilitate bus connections at Willits for points south of Willits. Special arrangements have been made for Western Greyhound buses to go directly to the applicant's station at Willits.

For through passengers between the San Francisco and Eureka areas there are four daily Western Greyhound Schedules in each direction and five daily Southwest Airways flights in each direction. Public acceptance of the alternative service is shown by the following breakdown of total common carrier passengers traveling between the San Francisco and Eureka areas:

Southwest Airways	67%
Western Greyhound Lines	23%
Northwestern Pacific	10%
Total Common Carriers	100%

System Operating Results

The following tabulation shows, for the last three years, the net railway operating income or loss on applicant's entire operations, including both passenger and freight, together with the rates of return computed on the basis of book value of its property and also on the basis of I. C. C. valuation of its property:

<u>Year</u>	<u>Net Railway Operating Income</u>	<u>Rate of Return on Book Value</u>	<u>Rate of Return I.C.C. Valuation</u>
1955	\$(17,000)	No Return	No Return
1956	649,374	1.11%	1.71%
1957	532,441	0.92%	1.2 %

(Net Operating Loss)

Operating Results of Passenger Trains

The order setting aside submission and requiring further hearing directed applicant to offer in evidence:

- a. Current studies respecting revenues and estimated out-of-pocket expenses of operating Trains Nos. 3 and 4 between Tiburon and Eureka.
- b. Current studies respecting the estimated reduction in out-of-pocket loss to be realized by discontinuance of passenger Trains Nos. 3 and 4 between Tiburon and Willits.
- c. Evidence respecting the feasibility of operating a self-propelled car in lieu of the present type of passenger train equipment between Tiburon and Eureka and studies respecting the effect the operation of such equipment would have on out-of-pocket loss.
- d. Evidence respecting the feasibility of operating a mixed passenger and freight train between Tiburon and Eureka and studies respecting the effect the operation of such a mixed train, both on a daily and on a three-times-per-week basis, in each direction, would have an out-of-pocket loss.

Applicant's Exhibit No. 22 shows an estimated annual out-of-pocket loss of \$189,075 for operating Trains Nos. 3 and 4 between Tiburon and Eureka based on 12 months ended June 30, 1958 and current operating expense. This estimate may be compared to the earlier estimate of \$201,638. Applicant's Exhibits Nos. 24 and 25 show that, if the operation of Trains Nos. 3 and 4 is discontinued between Tiburon and Willits and a Budd rail car is substituted for the present equipment on the remaining operation between Willits and Eureka, the estimated annual out-of-pocket loss will be reduced to \$69,555, a net reduction in out-of-pocket loss of \$119,520.

As previously stated, applicant introduced evidence to the effect that it is not feasible to operate a Budd rail car between Tiburon and Willits. As applicant concluded that such operation would not be feasible, it offered no studies respecting the effect the operation of such equipment would have on out-of-pocket loss.

Exhibit No. 30 introduced through a Commission staff witness is an engineering-economic report based on the year 1957 showing estimated revenues and out-of-pocket expenses using rail diesel car equipment for the passenger operation between Tiburon and Eureka. The exhibit shows an estimated total revenue of \$67,847 including pass passenger revenues of \$24,528, estimated out-of-pocket expenses of \$183,249, and an estimated net loss of \$115,402 for an operation using a rail diesel car and a conventional train as necessary. For an operation using two rail diesel cars and a conventional train as necessary, the exhibit shows estimated out-of-pocket expense of \$178,570 and an estimated net loss of \$110,723.

It should be noted that if Trains Nos. 3 and 4 were discontinued, applicant actually would not lose any revenue by reason of not providing passenger train service for pass passengers. However, applicant would incur certain additional expenses for the transportation of its employees on necessary business of applicant. The record shows that such additional expense would amount to \$3,000 per year should this Commission authorize applicant to discontinue the operation of its passenger trains between Tiburon and Willits.

Applicant's Exhibit No. 27 shows revenues and estimated out-of-pocket expenses of operating mixed passenger and freight train service between Sonoma and Eureka based on 12 months ended June 30, 1958 and current operating expenses as follow:

	<u>Per Annum</u>
A. <u>Daily Service</u>	
1. Passenger Train Revenues	\$ 12,087
2. Estimated Out-of-Pocket Expense	287,262
3. Out-of-Pocket Loss	275,175
B. <u>Triweekly Service</u>	
1. Passenger Train Revenues	12,087
2. Estimated Out-of-Pocket Expense	128,303
3. Out-of-Pocket Loss	116,216

The vice president and general manager of applicant testified that applicant does not operate through freight service between Willits and Tiburon as the great preponderance of the freight goes to Schellville for delivery to Southern Pacific by way of the Sonoma branch.

The average length of the freight trains is from 75 to 125 cars. If a mixed freight and passenger train were operated, the passenger cars would have to be placed at the end of the train. The mixed train would have to make two stops at many points, one for the freight and another to take care of the passenger car on the rear of the train. The average running time of freight trains from Eureka to the "Y" at Ignacio is about 24 hours. Several hours additional would be required if a mixed train were operated between these points. Even if the mixed train were held down to 20 cars, an 18-hour schedule would be required. This compares with the present schedule of 9 hours and 35 minutes for the passenger trains. Because of the slack action affecting a passenger car at the end of a freight train, applicant's witness testified that he would anticipate many personal injuries to passengers on the mixed train.

The representatives of the railway brotherhoods concurred with applicant in its views that the operation of a mixed passenger and freight train would not be feasible.

Support of Application by Freight Shippers

Several witnesses representing large freight shippers of applicant testified in support of the application. They supported the application because they were of the opinion that any reduction in out-of-pocket loss on passenger trains would relieve freight rates of a portion of the burden they are presently bearing.

Position of Protestants

The witnesses appearing for the Chambers of Commerce of Santa Rosa, Loleta, Fortuna and Eureka and for the Humboldt Board of Trade emphasized the importance of the Redwood Empire area and the need of the communities in this area for continued rail passenger service if such communities are to share in the growth of the State of California. They also emphasized the tourist attraction of the area served by applicant's passenger trains.

The Loleta Chamber of Commerce appeared through Mr. Albert Pedrazzini as a protestant in this proceeding. In support of this position Mr. Pedrazzini presented a statement on behalf of the Loleta Chamber of Commerce. After Mr. Pedrazzini had left the witness stand, applicant offered in evidence, for the purpose of impeachment, statements made by Mr. Pedrazzini on behalf of the Loleta Chamber of Commerce in a prior proceeding as taken from the Official Reporter's transcript. The context of the statement was that the Northwestern Pacific Railroad should improve its service with better equipment and that if it did not work out after a "six-months' trial", maybe the community would have to depend on bus and air service. The representative of the labor unions and counsel for the Commission objected to the receipt in evidence of this statement on the ground that applicant had failed to lay the necessary foundation for its receipt by asking Mr. Pedrazzini questions concerning it while he was on the witness stand. Counsel for applicant has filed a written reply to the objection urging that the statement constitutes a declaration against interest of the authorized agent of a party to this proceeding and hence no such foundation need be laid as a condition to its admission in evidence. No proper foundation has been laid for the introduction of this evidence as impeaching testimony. The statements of position in the prior proceeding do not constitute either a declaration against interest under the California law of evidence or an admission against interest in this proceeding. As there has been no showing that the statements in the transcript are competent evidence, the objections are hereby

sustained and the motions to strike the evidence are hereby granted.)

The application was also opposed by representatives of the railroad brotherhoods. They argued that applicant has made no adequate effort to attract additional patronage through advertising and contacting various travel groups. They also asserted that the pass passengers who comprised 46 per cent of the total passengers should be given full consideration by the Commission in its review of the operating results of the passenger trains. They urged that the Commission deny the application and in any event that the Commission holds its decision herein in abeyance until the completion of Case No. 5829 and that this decision be made a part of the decision in Case No. 5829.

The record shows that from June, 1956 to December, 1957 applicant spent \$4,535 for newspaper advertisements, illustrated timetables, and posters. This amount was approximately 6 per cent of applicant's gross passenger revenue during the same period.

Conclusion

The record clearly shows that Trains Nos. 3 and 4 operate at large out-of-pocket losses and that substantial savings would result from the discontinuance of their operation between Tiburon and Willits. Other means of transportation between San Rafael and Willits are adequate to meet the needs of the public. The Commission is of the opinion and hereby finds that public convenience and necessity no longer require the operation of Trains Nos. 3 and 4 between San Rafael and Willits and that applicant's request to discontinue the operation of said passenger trains between said points should be granted.

The Commission makes no finding respecting the physical feasibility of operating a self-propelled car between San Rafael and

Willits. The motion of protestants that an actual test of the operation of a Budd car on grades be made by the parties concerned is hereby denied. In order to effect further economies in the operation of its passenger trains, applicant will be authorized to use a self-propelled car in lieu of the present type of passenger train equipment between Willits and Eureka.

The Commission further finds that it is not feasible to operate a mixed passenger and freight train between Tiburon and Eureka.

O R D E R

Public hearings having been held in the above-entitled matter, the matter having been submitted and based upon the evidence of record and the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

1. That Northwestern Pacific Railroad Company, the applicant herein, is hereby authorized to discontinue the operation of Trains Nos. 3 and 4 between San Rafael and Willits and intermediate points.

2. That applicant shall cancel, in conformity with the rules of this Commission, the passenger timetables and passenger tariffs applicable to the operation of Trains Nos. 3 and 4 between San Rafael and Willits and intermediate points.

3. That applicant shall give not less than seven days' notice to the public of its discontinuance of the passenger train service herein authorized by posting notices in Trains Nos. 3 and 4 and in agency stations involved.

4. That applicant shall notify this Commission in writing of the date of its discontinuance of passenger train service as herein

authorized within thirty days after the discontinuance of said passenger train service.

5. After the discontinuance of passenger train service between San Rafael and Willits and intermediate points, without further authorization from this Commission, applicant may use a self-propelled car in lieu of the present type of passenger train equipment in the operation of its Trains Nos. 3 and 4 between Willits and Eureka and intermediate points.

6. The authorizations herein granted shall expire if not exercised within eighteen months from the date hereof.

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

Dated at San Francisco, California, this 11th day of October, 1958.

E. L. Fox
President

John E. Mitchell

Paul W. Bremer

William K. ...

Theodore J. ...
Commissioners