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ORIGINAL

Decision No. 73251

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF SAN CARLOS, a municipal
corporation,)

Complainant,)

vs.)

SOUTHERN PACIFIC COMPANY, a
corporation,)

Defendant.)

Case No. 8697

Investigation on the Commission's
own motion into the rates, charges,
rules, operations, practices, con-
tracts, leases, service and facil-
ities of all the vehicular parking
areas adjacent to railroad stations
between San Francisco and San Jose,
California, owned or controlled by
SOUTHERN PACIFIC COMPANY.)

Case No. 8700

(Appearances are listed in Appendix A)

ORDER OF MODIFICATION

By its order dated October 10, 1967, the Commission instituted an investigation into the operations of all vehicular parking areas adjacent to the railroad stations between San Francisco and San Jose, California, owned or controlled by Southern Pacific Company for the purpose of determining the reasonableness of parking charges recently imposed or about to be imposed by respondent. The order also restrained respondent from charging or collecting parking tolls at any of its parking areas, adjacent to its tracks, between San Francisco and San Jose. On October 11, 1967, respondent filed a motion to modify the restraining order.

Oral argument on the motion to modify was held before Examiner Daly on October 18, 1967, at San Francisco.

By its motion respondent requests that the Commission's order of October 10, 1967, be modified to provide that respondent may file a statement (in tariff form, if desired) setting forth parking charges now applied and proposed to be applied at each station between San Francisco and San Jose, inclusive; that such charges as proposed to be applied to stations where not in effect as of October 10, 1967, shall not take effect without seven days' notice to the Commission and to the public; and that such charges, when applied, shall be subject, together with charges instituted prior to October 10, 1967, to the jurisdiction of the Commission to order reparations in whole or in part, should the Commission find, upon investigation, that the charges are unjust and unreasonable or otherwise unlawful.

At the time that the restraining order was signed respondent asserts that it had already established and was collecting vehicular parking charges at parking lots adjacent to its stations in a number of cities.

Respondent requests that the Commission's order of October 10, 1967, be modified so as to exclude those stations at which parking charges had been established prior to the issuance of the order. The stations are:

Hillsdale	San Francisco
Mountain View	San Jose
Palo Alto	San Mateo and
Santa Clara	Sunnyvale.

According to respondent the parking lot in San Francisco has been operated since 1959, and is not considered as a commuter parking lot. By the same token respondent argues it has been

operating a commuter parking lot at Mountain View since 1959. Respondent pointed out that the Commission, by Decision No. 72615, dated June 20, 1967 in Cases Nos. 8087, 8188 and 8204 had found that said property has been dedicated to a public use. However, respondent is presently charging 35 cents at its Mountain View lot.

The cities argued that during September and October of 1967 respondent has inaugurated a 35 cents parking charge at a number of lots adjacent to its stations between San Francisco and San Jose without first obtaining Commission approval. They take the position that such unilateral action should be restrained until such time as the Commission can make a determination as to whether a charge should be made and if so the reasonableness of the charge.

The staff recommended that the restraining order be modified by excluding therefrom the San Francisco and Mountain View parking lots. The staff further recommended that the charge made at the Mountain View lot be reduced from 35 to 25 cents.

On October 20, 1967, respondent filed a petition for rehearing the Commission's order of October 10, 1967. Respondent argues that the restraining order is defective in that the properties to which the order relates, with the exception of those covered by Decision No. 72615, have not been the subject of a proceeding to determine whether they have been dedicated to a public utility use, which it claims is necessary before the Commission can assume jurisdiction.

During the course of oral argument, respondent introduced in evidence Exhibit 1, which is a proposed tariff covering the properties in question. Respondent indicated a willingness to waive the issue of jurisdiction in the event such tariff was accepted by the Commission and respondent was permitted to

inaugurate the 35 cents parking charge, with the understanding that it would make reparation in the event the Commission, after hearing, finds the charge to be excessive.

In the interest of orderly procedure the Commission is of the opinion that the restraining order should be modified as hereinafter set forth.

IT IS ORDERED that:

1. The Commission's order, dated October 10, 1967, in the above matters, is hereby amended by excluding from the restraining portion thereof the parking areas adjacent to respondent's railroad stations located at San Francisco and Mountain View.

2. Until further order of the Commission respondent assess a charge of no more than 25 cents at its Mountain View parking lot.

3. Until further order of this Commission and with the exception of its San Francisco and Mountain View parking lots, respondent shall remove or cover all rental signs and rental equipment from its parking lots adjacent to its stations between San Francisco and San Jose.

4. Respondent's petition for rehearing of the Commission's order of October 10, 1967, is hereby denied.

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

Dated at San Francisco, California, this 24th day of OCTOBER, 1967

[Signature] President
[Signature]
[Signature]
[Signature]
Commissioners

-4- Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

RESPONDENT: Charles W. Burkett and John MacDonold Smith, for Southern Pacific Company.

INTERESTED PARTIES: Richard L. Andrews, for the City of Menlo Park; David E. Schricker, for Redwood City; Donald C. Meaney, for the City of Palo Alto; Frank Gillio, for the City of Sunnyvale; Fred Caploe, for the City of Mountain View; Robert K. Booth, Jr., for the City of Santa Clara; Burress Karmel, for the City of Burlingame; Richard G. Randolph, for the City of San Mateo; Michael Aaronson and David J. Palmer, for the City of San Carlos; and Kenneth M. Dickerson, for the City of Belmont.

COMMISSION STAFF: William Bricca and Clyde Neary.