

**ORIGINAL**

Decision No. 73850

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN PACIFIC COMPANY to discontinue the operation of passenger trains Nos. 75 and 76 between San Francisco and Los Angeles. }

Application No. 49654  
Filed September 1, 1967

- Charles W. Burkett and Herbert A. Waterman, for Southern Pacific Company, applicant.
- James E. Howe and George W. Ballard, for Brotherhood of Railroad Trainmen;
- Charles E. Porter and Donovan P. Anderson, for Order of Railway Conductors and Brakemen; G. R. Mitchell and J. J. Willey, for Brotherhood of Locomotive Engineers;
- Victor E. Garwood, for Sierra Club; Paul L. McKaskle, in his own behalf; Ralph Patey, for Lompoc Valley Chamber of Commerce; and M. Dwain Smith, for City of Tehachapi, protestants.
- J. L. (Jim) Evans, for B.L.F. & E. State Legislative Board; Charles H. Purkiss, for Brotherhood of Railway Clerks; Thomas M. O'Connor, William C. Taylor and Robert R. Laughead, for the City and County of San Francisco; James M. Cooper, for San Francisco Chamber of Commerce; Edward F. Buckner, for County of Santa Barbara;
- Harold W. Kennedy by Raymond W. Schneider and Edward A. Nugent, for the County of Los Angeles; Kenneth C. Delaney, for Los Angeles Area Chamber of Commerce; Edward I. Blincoe, in his own behalf and for Utility Users League of California, interested parties.
- John C. Gilman, Counsel, for the Commission staff.

O P I N I O N

Southern Pacific Company, hereinafter called Southern Pacific, filed its application herein to discontinue the operation of its passenger Trains Nos. 75 and 76, hereinafter called the Lark, between San Francisco and Los Angeles on September 1, 1967.

On October 16, 1967, the Commission held a hearing before Examiner Cline on the motion of the staff for an interlocutory order filed October 2, 1967, and the Commission issued an interlocutory order, Decision No. 73213, on October 17, 1967, requiring Southern Pacific, either by amendment to its application or by advance distribution of proposed exhibits, to provide detailed statements of certain specified information on or before October 27, 1967. Pursuant to said decision Southern Pacific made an advance distribution of proposed exhibits.

Public hearings on this application were held before Commissioner Gatov and Examiner Cline in San Francisco on November 15 through 17, 1967. Commissioner Bennett was in attendance at the San Francisco hearings. Further hearings were held before Examiner Cline in Santa Barbara on November 20; and in Los Angeles on November 21 and 22, 1967. Near the conclusion of the hearing in Los Angeles the counsel for the Commission staff moved to dismiss the application on the basis of Decision No. 70939, in Application No. 48219, and Case No. 7378. The motion was taken under submission. The entire matter was taken under submission at the conclusion of oral argument before the Commission en banc and Examiner Cline on December 19, 1967.

Brief Description of the  
Southern Pacific Lark Trains

The Southern Pacific Lark Trains Nos. 75 and 76 provide overnight service between San Francisco and Los Angeles along the Coast Route with stops at intermediate points. These trains have a departure time of 9:00 p.m. and an arrival time of 8:30 a.m.

In 1949 the Larks were advertised as the finest overnight trains in America. The average consist at that time and until 1956 was two head-end cars, 13 to 15 sleepers and a triple unit diner-lounge. The Oakland-San Jose section of the train had a buffet lounge. During the year 1956 two coaches and a snack lounge were added to the Lark consist and two sleeping cars were removed.

In 1957 the Starlight overnight coach trains were consolidated with the Lark trains, and the consist of the Lark trains was increased by one head-end car and additional coaches. This change was accompanied by the reduction of pullman cars from an average of 10 prior to the consolidation to an average of seven in 1959.

In 1960 the Commission granted Southern Pacific Company authority to discontinue the Oakland-San Jose portion of the Lark and required connecting bus service between the 3rd and Townsend Street Station in San Francisco and the 16th Street Station in Oakland. This change was accompanied by the further reduction of one pullman car.

In September 1963 one unit of the triple-unit diner was converted to a lounge for coach passengers; and in March 1964 when the triple-unit car was opened both to first-class and coach passengers, one car for coach dining was removed.

During 1967 the cancellation of the United States mail contract resulted in the removal of the R.P.O. cars from the Lark. The consist of the Lark trains on September 30, 1967 included one head-end car, two coaches, two pullman cars and one diner-lounge, or a total of six cars.

By Decision No. 70939, issued July 1, 1966, the Commission denied Application No. 48219 of Southern Pacific to discontinue the Lark and ordered Southern Pacific to take necessary steps to improve the on-time performance of the Lark Train No. 76 and to do all things necessary to provide sufficient pullman and coach accommodations in compliance with the provisions of Decision No. 55202.

Southern Pacific Estimates of the  
Results of Operating the Lark Trains  
and of their Discontinuance

The assistant to the manager employed in Southern Pacific's Bureau of Transportation Research testified regarding the revenues and expenses of Trains Nos. 75 and 76 which are shown in Exhibit No. 37. The costs were developed by the "Directly Assigned and Unit Cost Method" described in Exhibit No. 39. Certain expenses such as wages and fuel were identified directly with the particular trains under study. To these directly associated items of expense were added costs covering expenses which, though not directly related to the particular trains, were legitimate charges that should be apportioned thereto. This was accomplished on a unit-cost basis in accordance with the amount of work done, the unit costs being: gross ton-miles, locomotive unit-miles, yard engine miles, train miles, and car-miles. Unit costs applicable to commute service were excluded.

In developing the unit costs, the accounts as reported to the Interstate Commerce Commission were separated into two groups: (1) the variable costs, or those which vary with business volume; and (2) fixed costs, or those which would be incurred if no traffic were handled. The variable expenses only were assigned to the service units.

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The following tabulation of revenues and expenses appears in Exhibit No. 37:

REVENUES AND EXPENSES OF TRAINS 75-76  
BETWEEN SAN FRANCISCO AND LOS ANGELES

<u>Line No.</u>	<u>Description</u>	<u>Actual for 12 Months 9/66 - 8/67</u>	<u>Estimated Year 1968</u>
<u>Revenues</u>			
1.	Passenger . . . . .	\$ 573,600	\$ 488,100
2.	Mail . . . . .	484,300	85,000
3.	Other Transportation . . . . .	4,400	4,400
4.	Dining and Buffet . . . . .	57,900	48,000
5.	Total Revenues . . . . .	<u>1,120,200</u>	<u>625,500</u>
<u>Expenses</u>			
6.	Wages - Train and Enginemen . .	415,300	417,600
7.	Servicing - Diesel Locomotives .	61,500	55,600
8.	Servicing - Passenger Cars . . .	138,200	113,800
9.	Repairs - Diesel Locomotives . .	192,700	174,200
10.	Repairs - Passenger Cars . . . .	251,500	184,100
11.	Switching . . . . .	40,500	38,000
12.	Casualties . . . . .	33,800	32,000
13.	Maintenance of Way and Structures	108,700	85,400
14.	Dining and Buffet Service . . . .	76,800	63,200
15.	Station employees . . . . .	142,500	142,500
16.	Non-operating employees' wage increase lines 7-13 . . . . .	32,000	26,400
17.	Health and Welfare for lines 6-15 . . . . .	28,800	25,700
18.	Payroll Taxes for lines 6-15 . . .	96,000	85,800
19.	Train Fuel . . . . .	76,100	59,500
20.	Depreciation-Diesel Locomotives .	69,800	63,100
21.	Depreciation-Passenger Cars . . .	48,800	34,200
22.	Interest -Diesel Locomotives . . .	6,200	3,600
23.	Interest -Passenger Cars . . . . .	25,400	9,300
24.	Passenger Bus and Baggage Truck Service . . . . .	8,600	8,700
25.	Pullman Company . . . . .	150,400	133,400
26.	Joint Facilities (LAUPT) . . . . .	182,600	138,500
27.	Subtotal Expenses on lines 6-26 . . . . .	<u>2,186,200</u>	<u>1,894,600</u>
28.	Net Profit or (Loss) before Expenses on lines 29-36 . . . . .	(1,066,000)	(1,269,100)
29.	All Other Transportation . . . . .	34,400	30,900
30.	All Other Maintenance of Equip- ment . . . . .	18,600	15,000
31.	General . . . . .	34,400	30,300
32.	Haul of Company Material . . . . .	20,000	17,700
33.	Non-operating employees' wage increase lines 29-32 . . . . .	4,200	3,600
34.	Health and Welfare for lines 29-32 . . . . .	2,100	1,900
35.	Payroll Taxes for lines 29-32 . . .	7,000	6,200
36.	Subtotal Expenses on lines 29-35 . . . . .	<u>120,700</u>	<u>105,600</u>
37.	Net Profit or Loss . . . . .	(1,186,700)	(1,374,700)

(Red Figure)

Exhibit No. 12 of Southern Pacific shows the annual and cumulative results of operation of Trains Nos. 75 and 76 during the period 1953 through June 1967, as follows:

Annual Results for Trains Nos. 75 and 76  
(1953 to June 1967)

1953	\$ (305,359)	\$ -
1954	(468,330)	(773,689)
1955	(389,420)	(1,163,109)
1956	(926,370)	(2,089,479)
1957	(701,639)	(2,791,118)
1958	(610,718)	(3,401,836)
1959	(730,803)	(4,132,639)
1960	(823,439)	(4,956,078)
1961	(653,605)	(5,609,683)
1962	(399,711)	(6,009,394)
1963	(514,649)	(6,524,043)
1964	(847,456)	(7,371,499)
1965	(1,036,162)	(8,407,661)
1966	(1,100,096)	(9,507,757)
First 6 mos. 1967	(566,186)	(10,073,943)

(Red Figure)

Exhibit No. 49 introduced by Southern Pacific develops the increase in estimated net profit on the Coast Daylight Trains Nos. 98 and 99, which would result from the shift of passengers to these trains by reason of the discontinuance of the Lark Trains Nos. 75 and 76, as follows:

EFFECT OF DISCONTINUANCE OF  
TRAINS 75-76 ON TRAINS 98-99

TWELVE MONTHS

<u>Line No.</u>	<u>Description</u>	<u>Increase</u>
<u>Revenues</u>		
1.	Passenger . . . . .	\$ 150,000
2.	Mail and Express . . . . .	-
3.	Baggage . . . . .	600
4.	Newspapers . . . . .	1,900
5.	Dining and Buffet . . . . .	29,000
6.	Total Revenues . . . . .	<u>181,500</u>
<u>Expenses</u>		
7.	Wages - Train Baggage man and Chair Car Porter . . . . .	32,100
8.	Servicing - Passenger Cars . . . . .	8,100
9.	Repairs - Passenger Cars . . . . .	23,400
10.	Casualties . . . . .	500
11.	Switching . . . . .	900
12.	Maintenance of Way and Structures . . . . .	5,200
13.	Dining and Buffet . . . . .	20,000
14.	Non-operating employees' wage increase lines 8-12 . . . . .	1,500
15.	Health and welfare for lines 7-14 . . . . .	1,800
16.	Payroll taxes for lines 7-14 . . . . .	5,900
17.	Train fuel . . . . .	3,600
18.	Depreciation, Passenger Cars . . . . .	5,100
19.	Joint Facilities (LAUPT) . . . . .	13,900
20.	Subtotal Expenses on lines 7-19 . . . . .	<u>122,000</u>
21.	Net Profit or (Loss) before Expenses on lines 22-28 . . . . .	59,500
22.	All Other Maintenance of Equipment . . . . .	1,000
23.	All Other Transportation . . . . .	1,100
24.	Traffic and General . . . . .	3,100
25.	Haul of Company Material . . . . .	1,200
26.	Non-operating employees' wage increase . . . . .	200
27.	Health and Welfare for lines 22-26 . . . . .	100
28.	Payroll Taxes for lines 22-26 . . . . .	400
29.	Subtotal Expenses on lines 22-28 . . . . .	<u>7,100</u>
30.	Net Profit or Loss . . . . .	\$ 52,400
<u>Statistics</u>		
31.	Head-end car miles . . . . .	134,420
32.	Chair car miles . . . . .	114,680
33.	Total car miles . . . . .	<u>249,100</u>

The Southern Pacific witness testified that the feeder value of the Lark trains was small in comparison with the Coast Daylight and San Joaquin Daylight trains, because the Lark does not provide a direct connection at Los Angeles with the eastbound trains and it does not provide a connection in San Francisco with Southern Pacific's service between San Francisco and Portland. The witness' estimate of the annual loss of such contributive revenue which would result from the discontinuance of the Lark trains, as shown on Exhibit No. 14, amounts to \$7,638.

Southern Pacific's Exhibit No. 47 was introduced to show the value of Trains Nos. 75 and 76 in providing transportation for employees traveling on company business. The following estimates are taken from this exhibit:

	<u>Annual Value</u>
Freight Train Crews on Company Business	\$ 3,616
Other Employees on Company Business	<u>25,070</u>
Total	28,686

The Staff's Estimates of the  
Results of Operating the Lark  
Trains and their Discontinuance

Exhibit No. 46 which was presented by the Commission staff shows the estimated results of operation on an out-of-pocket basis for Trains Nos. 75 and 76 for one year based on current operations. The expenses included in the out-of-pocket estimates were those expenses which would be saved if the operation of the trains were discontinued. Most of the expenses were computed by using unit costs which were developed by spreading the variable portions of system expenses over system service units. The system expenses



and system service units were obtained from Southern Pacific reports. The following tabulation is taken from Exhibit No. 46.

ESTIMATED RESULTS OF OPERATION ON OUT-OF-POCKET BASIS  
TRAINS NOS. 75 and 76 -- ONE YEAR CURRENT OPERATION

:Line: : No.:	Reference	Item	Amount
	(1)	(2)	(3)
		<u>Revenue</u>	
1.		Passenger	\$ 544,900
2.		Mail	85,000
3.		Other Transportation	4,400
4.		Dining and Buffet	48,000
5.		Feeder Value	32,300
6.	Lines 1 to 5	Total Revenue	714,600
7.	Table II Line 36	Total Out-of-Pocket Cost	1,597,700
8.	Line 6 Less Line 7	Net before Adjustments and Taxes	(883,100)
		<u>Adjustments</u>	
9.		Haul of Company Materials	(7,800)
10.		Reduced Fare Passengers	52,700*
11.	Lines 8 to 10	Net before Taxes	(838,200)
12.		Income Taxes	432,900
13.	Lines 11 and 12	Net after Adjustments and Taxes	(405,300)

(Red Figure)

\* Credit to passenger operation for transportation service provided for the freight operation without charge or at reduced fares.

Differences between the Southern Pacific and  
the Staff's Estimated Results of Operation of  
the Lark Trains and of their Discontinuance

In estimating revenues for the year 1968 the Southern Pacific witness projected a further reduction of 15 percent over the actual revenues for the period shown in its exhibit. The test year which the staff witness used was based on a six months projection from September 1, 1967. As the downtrend has been about 10 percent per year this resulted in a 5 percent reduction in revenues. If the staff had projected the reduction in revenues to the end of 1968, the reduction would have been 13.3 percent compared to Southern Pacific's 15 percent reduction.

The staff estimated that the loss of contributive or feeder revenue from discontinuance of the Lark trains would be \$32,300 as compared to Southern Pacific's estimate of \$7,638. Both started with the same feeder revenue figure but the Southern Pacific estimated that only 20 percent would be lost, whereas the staff estimated 50 percent would be lost.

The Southern Pacific's Exhibit No. 47 showed \$28,686 additional expenses would be incurred in furnishing transportation to employees on company business who rode the Larks on passes. The staff estimate of \$52,700 was based on 90 percent of the value of passenger services furnished without charge or at reduced fares whether the passengers were on company business or not.

Turning to expenses, we find that Southern Pacific computed the Los Angeles Union Passenger Terminal expenses to be \$138,000. The staff determined that only 30 percent of this amount was variable, and although the 70 percent nonvariable portion of these expenses would be passed on to other users of the terminal, the nonvariable portion should not be considered as being saved.

Southern Pacific included \$13,000 interest on locomotives and passenger cars in its estimates. The staff omitted the interest

on the ground that such interest is not properly includable in an out-of-pocket cost study.

The Southern Pacific used a 16-year life, whereas the staff used a 25-year life in computing depreciation on locomotives. For locomotive repairs Southern Pacific used a recorded figure and spread the costs on the basis of diesel unit miles. The staff witness pointed out that the diesel unit in freight service hauls approximately 900 tons per unit as compared to 250 tons per unit in passenger service, and for that reason he was of the opinion that diesel unit miles should not be used. The staff reduced the recorded costs for locomotive repairs by 25 percent, because the staff in prior studies had determined that Southern Pacific's unit cost for locomotive repairs is consistently higher than that of other Western railroads. The adjusted cost was distributed on the basis of tonnage hauled by using locomotive gross ton miles and trailing gross ton miles.

For station employees the Southern Pacific showed \$142,500, whereas the staff estimate was reduced to \$87,600 through the elimination of three mail and baggage handlers in San Francisco because of the loss of the mail contract and the elimination of a rate revising clerk at Ventura.

In computing income taxes the staff allowed 7 percent for California franchise tax. After deducting the franchise tax from the net before taxes an additional 48 percent for Federal income tax was deducted from the balance. The total effective tax rate for both taxes deducted by the staff was 52 percent.

Counsel for Southern Pacific urged the Commission to make no allowance for income taxes on the ground that the full impact of the loss on the economy, including the State of California and the Federal Government, as well as Southern Pacific, should be considered by the Commission in making its determination on this

application. A witness for Southern Pacific testified that by reason of unused investment credit for the years 1966 and 1967, the effective Federal income tax rate of Southern Pacific for the foreseeable future, assuming the tax rates remain the same, will be 24 percent. After considering the 7 percent California franchise tax, he testified that the total effective rate for both taxes would be between 27 and 28 percent.

Results of Operation  
of Southern Pacific

Southern Pacific's Exhibit No. 38, which is based on its annual report to the Interstate Commerce Commission, shows that Southern Pacific experienced a systemwide deficit from passenger operations of \$15,599,811 for the year 1966. This figure is derived from the revenues and fully allocated costs attributable to the passenger service.

The following tabulation of net railway operating income and rate of return on investment in, and valuation of, property used in transportation service is prepared from Southern Pacific's Exhibit No. 52. The exhibit shows the information for the calendar years 1960 to 1966, inclusive, but only the last two of these years are included in the tabulation below.

<u>Description</u>	<u>Calendar Year</u>	
	<u>1966</u>	<u>1965</u>
Average Miles of Road Operated .....	11,707	11,708
Revenue Ton Miles (Thousands) .....	61,002,424	57,365,360
Revenue Passenger Miles (Thousands)	767,819	797,358
Railway Operating Revenues .....	\$ 822,355,410	\$ 795,895,602
Railway Operating Expenses .....	641,467,728	619,171,155
Net Revenue from Ry. Operations	180,887,682	176,724,447
Railway Taxes .....	81,773,036	74,560,119
Railway Operating Income .....	99,114,646	102,164,328
Equipment & Joint Facility Rents	37,054,501	34,816,260
Net Railway Operating Income ....	62,060,145	67,348,068
Property Used in Transp. Service		
a. Avg. Net Book Value of Investment	1,858,550,243	1,814,471,416
b. Avg. I.C.C. Valuation .....	1,678,751,577	1,655,832,693
Rate of Return (Percent)		
a. On Basis of Avg. Book Value ...	3.34%	3.71%
b. On Basis of Avg. I.C.C. Valuation	3.70	4.07

The statement of consolidated income of Southern Pacific Company and subsidiary companies for the years 1966 and 1965 which was submitted to Southern Pacific's stockholders was introduced in evidence by the staff as Exhibit No. 36. The following tabulation is prepared from Exhibit No. 36.

<u>Description</u>	<u>Calendar Year</u>	
	<u>1966</u>	<u>1965</u>
Railway Operating Revenues .....	\$930,530,992	\$896,659,959
Railway Operating Expenses .....	712,737,194	684,085,071
Net Revenue from Railway Operations	217,793,798	212,574,888
Taxes other than Federal Income .....	73,557,423	68,853,211
Railway Operating Income .....	144,236,375	143,721,677
Equipment & Joint Facility Rents ..	38,301,349	36,614,019
Net Railway Operating Income .....	105,935,026	107,107,658
Income from Operations of Non- Railway Companies .....	20,028,473	17,366,273
Income from Operations .....	125,963,499	124,473,931
Other Income .....	41,468,188	30,407,127
Income before Fixed Charges and Federal Income Taxes .....	167,431,687	154,881,058
Fixed Charges .....	31,207,203	30,241,976
Income before Federal Income Taxes	136,224,484	124,639,082
Federal Income Taxes .....	33,244,282	26,136,668
Consolidated Net Income	102,980,202	98,502,414
Less: Minority Interests .....	607,823	706,666
Net Income .....	102,372,379	97,795,748
Reduction in Federal Income Taxes by reason of Accelerated Depre- ciation and Amortization .....	12,653,194	11,924,239
Net Income Adjusted for such Reduction	89,719,185	85,871,509
Net Income per Share .....	3.77	3.60
Net Income per Share Adjusted for Tax Reduction .....	3.31	3.16

Cost of Money

The staff's Exhibit No. 48 is a special report on cost of money and selected financial data. This exhibit shows various comparisons of 17 railroads with Southern Pacific during the

10-year period from 1956 through 1965. The 10-year averages are as follows:

<u>Item</u>	<u>Seventeen Railroads</u>	<u>Southern Pacific</u>
Return on Total Capitalization	4.09%	4.85%
Common Equity Ratio .....	61.70%	63.61%
Return on Common Equity .....	4.30%	5.58%
Ratio of Operating Expense to Operating Revenues .....	90.80%	91.25%
Retained Earnings as a Percent- age of Total Capitalization	38.34%	40.19%
Current Ratios .....	1.70	1.64

The cost of money to Southern Pacific as of December 31, 1965 was as follows:

	<u>Capital Ratios</u>	<u>Cost Factor</u>	<u>Weighted Cost Total</u>
Long-Term Debt	31.23%	4.09%	1.28%
Common Stock	68.77	5.82	4.00
Total	100.00		5.28

Number of Revenue Passengers  
Using the Lark Trains

The average daily count of revenue passengers has declined from 191 on Train No. 75 and 148 on Train No. 76 in 1960 to 83 on Train No. 75 and 73 on Train No. 76 in 1967 (Exhibit No. 4). During this same period the population along the route of the Lark, including San Francisco and Los Angeles, has increased by 17 percent (Exhibit No. 3). Since the last application (No. 48219) for discontinuance of the Lark trains was filed, the average daily number of revenue passengers using these trains has declined 17 percent. Although the Lark trains were designed primarily to attract the businessman, the average daily number of pullman passengers has declined, since said last application, from 26 to 16 on Train No. 75 and from 24 to 17 on Train No. 76.

The daily average number of revenue passengers on and off Trains Nos. 75 and 76 for the period September 1, 1966 to August 31, 1967, inclusive, is as follows (Exhibit No. 5).

<u>Stations</u>	<u>Train No. 75</u>					
	<u>363 Day Average</u>					
	<u>First Class</u>			<u>Coach Class</u>		
	<u>On</u>	<u>Off</u>	<u>Leaving Stations</u>	<u>On</u>	<u>Off</u>	<u>Leaving Stations</u>
Los Angeles .....	14	-	14	45	-	45
Glendale .....	1	-	15	4	#	49
Oxnard .....	#	#	15	1	1	49
Ventura .....	#	#	15	1	1	49
Santa Barbara .....	1	#	16	2	4	47
Surf .....	#	#	16	#	#	47
Guadalupe .....	#	#	16	#	#	47
San Luis Obispo .....	#	#	16	1	1	47
Paso Robles .....	#	#	16	#	#	47
Salinas .....	#	#	16	1	3	45
Watsonville Junction .....	#	#	16	1	1	45
San Jose .....	#	1	15	2	6	41
Palo Alto .....	-	1	14	3	3	41
Burlingame .....	-	#	14	5	1	45
San Francisco .....	-	14	-	-	45	-
Total .....	16	16		66	66	

# Less than one per day.

<u>Stations</u>	<u>Train No. 76</u>					
	<u>363 Day Average</u>					
	<u>First Class</u>			<u>Coach Class</u>		
	<u>On</u>	<u>Off</u>	<u>Leaving Stations</u>	<u>On</u>	<u>Off</u>	<u>Leaving Stations</u>
San Francisco .....	14	-	14	39	-	39
Burlingame .....	#	#	14	1	2	38
Palo Alto .....	1	#	15	3	5	36
San Jose .....	1	#	16	5	3	38
Watsonville Junction .....	#	#	16	1	1	38
Salinas .....	1	#	17	2	1	39
Paso Robles .....	#	#	17	#	#	39
San Luis Obispo .....	#	#	17	1	1	39
Guadalupe .....	#	#	17	#	#	39
Surf .....	-	#	17	#	#	39
Santa Barbara .....	#	1	16	2	3	38
Ventura .....	#	#	16	1	1	38
Oxnard .....	#	#	16	1	1	38
Glendale .....	#	1	15	#	2	36
Los Angeles .....	-	15	-	-	36	-
Total .....	17	17		56	56	

# Less than one per day.

Availability of Other Passenger Transportation Service

A consulting transportation economist, who was a Fellow in Transportation at the Graduate School of Yale University during the years 1939 and 1940 and who was formerly employed as Passenger Sales Representative for the New York Central, as Chief of the Civil Aeronautics Board Air Transport Service Section and as Civilian Industrial Specialist in Transportation for the Air Force, testified for Southern Pacific regarding the reasons why, in his opinion, public necessity and convenience no longer require the operation of the Lark trains. He testified that the public, by its overwhelming preference for the alternate modes of transportation, has demonstrated that it does not consider the service on these trains a convenience.

This witness pointed out that in the postwar period government financial support has been a major factor in the domination of intercity passenger service by road and air vehicles. Table 1 of Exhibit No. 17 shows that the rate and amount of public expenditure for highway, waterway and air transportation has greatly accelerated. For example, during the six-year period from 1961 through 1966 public expenditures for such domestic transportation facilities were 38 percent more than the cumulative total of such expenditures in the 159-year period from 1789 to 1948. He testified that except for a small amount of money allocated for the rail test project in the highly congested Boston to Washington or Northeast corridor, there has been no public expenditure for improved rail transportation for many years and that consequently, the recently accelerated rate of government aid to nonrail modes has greatly enhanced their competitive position in relation to the railroads.

Table 2 of Exhibit No. 17 shows that Pacific Air Lines, Inc., in 1966, received Federal subsidy funds in the amount of \$3,595,000.



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and that Pacific and its predecessor, Southwest Airways, received a total Federal subsidy of \$44,748,000 from 1947 through 1966. Table 3 of Exhibit No. 17 shows that the growth in Pacific's traffic amounted to a 551 percent increase in passenger miles during the years from 1951 to 1966.

Approximately one-half of the 1966 subsidy to Pacific was in support of air service to the communities in the San Francisco-Los Angeles corridor which are served directly and indirectly by the Lark. The 1966 subsidy per originated passenger at the intermediate points, shown on Table 4 of Exhibit No. 17, was \$13. This amount may be compared to the average commercial revenue from each passenger of \$17. This witness determined from an analysis of the loss which Southern Pacific has incurred in operating the Lark trains that the Southern Pacific subsidy to passengers traveling on the Lark has amounted to \$18.36 per passenger.

The witness testified that since World War II a total of over six billion dollars in Federal and local funds have been expended for domestic, civil and military airport construction; and another seven billion dollars of Federal funds has been spent for establishing and operating the Federal Airways System. Table 5 of Exhibit No. 7 shows that almost \$156,000,000 of Federal and local money has been expended on the airport facilities under the Federal-Aid airport program at the points served by the Lark trains.

This witness pointed out that by far the largest expenditure of public funds for domestic transportation has been for highways. The total expenditure approximates two thirds of the national debt. The basic ABC program for the improvement of primary and secondary rural highways was initiated in 1916 and it was extended to include grants for urban sections of such highways in 1944. This massive

program has developed rapidly with twenty-three billion dollars worth of construction under way as of September 30, 1967, involving 231,000 route miles of highway in the United States. Of the total expenditures for the ABC program, over \$566,000,000 has been spent for projects completed in the State of California since July 1, 1956; additionally, projects are under way in California totaling a further \$110,000,000.

This witness testified that since 1956 the National System of Interstate and Defense Highways program has overshadowed the ABC program. Designated Interstate System route mileage within the State of California totals 2,185 miles or 5.3 percent of the national total. Federal expenditures for Interstate System projects completed, under way or authorized for construction in California, not including the 10 percent put up by the State of California, amount to \$2,431,500,000 or 9.2 percent of the national total. The portion of Interstate Route 5 between San Francisco and Los Angeles, when completed, will provide a substantial savings in driving time as compared with the routes now available.

The witness further testified that generally the Western Territory has been regarded as more suitable than the East for passenger train operation between centers of population of greater distances. However, the volume of traffic often justifies only one or two trains per day on most routes, and schedules arranged to provide convenient arrival and departure times at the ends of the runs frequently serve intermediate stations at very inconvenient hours. On the other hand, bus travel generally offers frequent departures inasmuch as the passenger requirement per equipment unit is so much less than for the train.

At the other end of the competitive scale, the much greater speed of air travel is combined with departure frequencies

which generally far exceed the best of rail service and on high density routes often exceed bus frequency.

This witness stated that on longer trips the traveling businessman of this era has found it more convenient to use the speed and the flexibility of air travel, which allows him to spend more time at home while still accomplishing his goals. Even those who travel for private reasons or for pleasure are, for the most part, conditioned to choose the mode with the shortest transit time even though the time saved may have no practical value.

Table 14 of Exhibit No. 17 shows the number of passengers boarding airplanes in 22 Western states amounted to almost five million during the base year 1948. By the fiscal year 1966 the number of such passengers had grown to over 36 million, an increase of 626 percent. California air traffic has increased at an even greater rate with the boarding passengers rising from 1-1/4 million in 1948 to 11 million in 1966, an increase of 798 percent.

The growth record of PSA is illustrative of the dramatic success of air travel in the San Francisco-Los Angeles corridor. As recently as 1961 PSA operated only four aircraft. On August 31, 1967, with an investment of over \$60,000,000, it operated 15 aircraft, of which 9 were late-model pure jets and had approximately 1,400 employees. Between 1957 and 1968 PSA experienced a rise in annual revenue from \$3,000,000 to \$38,000,000. PSA now provides between 40 and 60 daily flights between San Francisco, Oakland, San Jose and Sacramento in Northern California and Burbank, Los Angeles and San Diego in Southern California.

This witness further testified that during the period from 1950 through 1965 automobile registrations increased 85.6 percent and gasoline consumption increased 98.5 percent. In the nation as

a whole the private automobile share of total domestic intercity passenger miles amounted to 86 percent in 1950 and approximately 89 percent on 1965.

Table No. 15 of Exhibit No. 17 shows the common carrier passenger volumes, frequencies and elapsed times in the San Francisco-Los Angeles corridor for the years 1953 and 1965 as follows:

<u>Year</u>	<u>Passenger Volumes in Thousands</u>		
	<u>Rail</u>	<u>Bus</u>	<u>Air</u>
1953	1,551.7	726.4	582.1
1964	512.2	1,383.6	2,572.2
1965	450.4	1,386.3	Unavailable

	<u>Weekly One-Way Frequencies</u>		
1953	70	56	350
1965	35	147	763

	<u>Minimum Elapsed Time in Hours</u>		
1953	9.8	10.5	2.0
1965	9.8	9.0	0.9

Tables 24 and 25 show the bus service which is competitive with the Southern Pacific Lark trains. In September of 1967, there were 28 daily bus schedules operating in each direction between San Francisco and Los Angeles.

The Los Angeles-San Francisco air travel market is the most heavily traveled of all city pair markets. Table 26 of Exhibit No. 17 shows that in September of 1967 there were 82 daily northbound flights and 78 daily southbound flights between San Francisco and Los Angeles.

This witness pointed out the air coach fare between San Francisco and Los Angeles was a bargain at \$14.85. PSA's present fare of \$12 between these points constitutes the lowest fare per mile for comparable distances in the United States. In 1957 PSA carried 124,000 passengers or one eighth of the 961,000 passengers between Los Angeles-Burbank-Long Beach, on the one hand; and San Francisco-Oakland, on the other hand. In 1966 it carried 1,768,000 passengers or well over half of the 3,251,600 passengers carried between these points.

The certificated air service in the San Francisco-Los Angeles corridor is supplemented by air taxi operations which extend the scope of air transportation to smaller markets and give unmatched schedule flexibility.

A sleeping car passenger on the Lark pays \$33.31 for first-class rail fare and a roomette between San Francisco and Los Angeles. This may be compared to the first-class air fare of \$29.87. The one-way coach class fare on the Lark of \$12.50 between San Francisco and Los Angeles is slightly lower than the \$13.50 one-way jet coach fare, but it is higher than the \$12 one-way propeller air coach fare. The bus fare of \$10.32 is lower than the rail coach fare. The witness also pointed out that for several people traveling together, the private automobile offers unrivaled economy.

The witness stated that he had reached 10 conclusions as a result of the various studies he had included in Exhibits Nos. 17 and 18.

1. The private automobile is the predominant passenger carrier in the San Francisco-Los Angeles corridor and probably carries more than twice the number of passengers moved by all modes of common carrier transportation.

2. Highway construction and improvement programs which are under way and projected for the corridor will, in the future, provide highways far superior to those now available, thus supporting past trends of ever greater reliance upon the private auto for most domestic travel requirements.

3. Common carrier bus transportation continues to provide surface transportation with improved equipment on more frequent and more useful schedules than those provided by rail.

4. The demand for and use of airline service in the San Francisco-Los Angeles market has experienced a tremendous growth. The air carriers nurture this growth by providing an ever increasing volume of services and utilizing new and larger equipment, often at declining fares. The San Francisco-Los Angeles corridor has more air traffic than any other travel market in the world.

5. The public has recognized a need for air service and promotes and supports it through both direct and indirect subsidies and through facilitating the provision of better air travel equipment and better air travel service improvements.

6. Air taxi operators supplement trunk and regional air carriers by providing customer-oriented local air service between many points in the corridor.

7. Rail traffic in the corridor has been declining for several years and will continue to decline at an even greater rate. This decline will not be altered by any economically feasible operation on the part of Southern Pacific.

8. The Lark provides less than one percent of the daily common carrier schedules between San Francisco and Los Angeles.

9. Excellent alternative bus service exists between the intermediate points within the corridor, generally on a faster schedule than the Lark.

10. The Lark is no longer a public necessity. There are numerous excellent alternatives, and by its overwhelming preference for the alternatives, the public has demonstrated that it does not even consider the service of the Lark to be convenient.

Position of the Commission  
Staff on Service and Promo-  
tion of the Lark Trains

The Commission staff, as one basis for denial of the application, states that Southern Pacific did not sufficiently heed the following language which appears in the conclusions of Decision No. 70939, in Application No. 48219, of the Southern Pacific to discontinue the Lark trains and Case No. 8378:

"This Commission hereby places Southern Pacific on notice that it will not authorize the discontinuance of any passenger trains unless it has first clearly demonstrated that Southern Pacific has made a sincere effort to compete in the open market with all other modes of transportation.

\* \* \* \* \*

"Based upon this record it is clear that Southern Pacific has not explored all of the avenues available to it in promoting the advantage of the Lark trains, including the possibility of reducing fares.

\* \* \* \* \*

"We are not unmindful that Southern Pacific, in its attempts to completely abandon passenger service, defeats its own purpose through its uncomprising (sic) and indifferent attitude. Southern Pacific should make a sincere effort to merchandise attractively and vigorously its Lark trains. The measures previously

directed by the Commission, those presented by the staff in this proceeding, and innovations utilized by other railroads to stimulate passenger traffic should be adopted by Southern Pacific.

"This Commission will not order Southern Pacific or any other public utility specifically how to promote and advertise its service, but this Commission will seriously consider all future discontinuance applications in the light of the efforts made along this line ....."

The staff witness in Exhibit No. 42 which reviews the history of the Lark trains, past Commission action relating to these trains and the position of the staff in the present proceeding in opposition to the application, stated that certain very minimal action was taken by Southern Pacific in improving the on-time performance of Train No. 76 from 80 percent on time to 85 percent on time for the year ending August 1967. He pointed out that the Lark schedule is a convenience schedule which is an hour and thirty minutes longer than the schedule for the Coast Daylight trains. In view of this "fat" in the schedule, the staff witness was of the opinion that the on-time performance of the Lark, except for an occasional mechanical failure, should be approaching 100 percent.

Exhibit No. 42 points out that a free "continental" breakfast is presently offered the Pullman passengers, and coach passengers purchase the same at 25 cents per item (75 cents for juice, roll and coffee). The primary effect of this change was a substantial cost savings to the company which has offset to some degree the loss of R.P.O. car revenue.

The staff witness was of the opinion that the substitution of the approximately 17-year old stainless steel sleepers for the older Pullman-Standard-type sleepers is highly questionable insofar as any appreciable additional passenger comfort and



convenience is concerned, and the staff still takes the position that the old "Daylight Type" coaches having a passenger capacity of 50 nonleg rest seats with 39-inch seat spacing, now used on the Lark trains, are not satisfactory for the overnight long-haul service.

The staff witness in Exhibit No. 42 pointed out that Southern Pacific has made no effort to advertise or to promote passenger rail service on the Lark or other passenger trains, other than the release of an item to the newspapers concerning the complimentary breakfast now served to pullman passengers on the Lark trains. The staff witness stated that it must be concluded that Southern Pacific continues to ignore the findings and conclusions of the Commission in Decision No. 70939 that it should demonstrate clearly it has made or will make a sincere effort to compete in the open market with other modes of transportation.

Another staff witness testified regarding the recent improvement of the passenger train service on the Canadian government's Canadian National Railways system. C.N.R. has instituted a market-oriented fare structure. The basic passenger fare is the same for coach and pullman, and the basic fare exists at three levels, the red (lowest), the white (intermediate), and the blue (highest). The red fares are applicable on midweek days during the off-season, the days of lowest demand. The white fares are applicable during the weekends of the off-season and midweek during the highest travel season such as summer and holiday seasons. The blue fares are applicable on the weekends during the off-season and midweek during the highest travel season such as summer and holidays. For example, the fares between Montreal and Toronto, a distance of 335 miles, are as follows: red fare, \$8.20; white fare, \$9.90; and blue fare, \$11.40.

The witness testified that the C.N.R. has a sense of style that is reflected in the makeup of their printed documents and the decor of their stations and rolling stock and which has a generally inviting and attractive effect on the potential and actual passengers. Other aspects of marketing involve the extras furnished on the trains without an increase in crew, such as coffee hours, bingo sessions and entertainment for children. It has refurbished equipment and stations. It serves complimentary meals to first-class passengers. The Rapido which travels between Montreal and Toronto is the fastest train in North America, and shortly the C.N.R. will be operating turbo trains between these two cities. C.N.R. has computerized its coach reservations and during 1968 will computerize its pullman reservations. Ticketing is fast, simple and straightforward.

The witness described his experience traveling on the Rapido from Montreal to Toronto. The 335 mile trip takes four hours and fifty-nine minutes and the train averages about 70 miles per hour. There were no intermediate stops except one on the western fringe of Montreal and one on the eastern fringe of Toronto to afford passengers not destined for the center of the metropolitan area an opportunity to get to the eventual destination more conveniently. There are no other passenger stops but there is a crew stop about halfway. C.N.R. personnel were uniformly courteous and gave good service.

The witness testified that C.N.R.'s policies have resulted in a dramatic increase of passengers and passenger revenues on its system and that the cost-revenue relationship of passenger revenue on the C.N.R. is improving. The C.N.R. is aiming for an elimination of the passenger deficit by the early 1970's. The record,

however, does not show the extent of the existing and past deficits. The rail proportion of the travel between Toronto and Montreal has increased over the air portion.

The staff witness compared the Montreal-Toronto corridor with the San Francisco-Los Angeles corridor. He stated that both are corridors connecting large metropolitan areas with day and night rail services. The population of the two big metropolitan areas in the San Francisco-Los Angeles corridor is larger and so the market is larger. Also, the standard of living is higher. He testified that the Lark trains, however, face certain aspects of auto and air competition not quite as is present in the Montreal-Toronto corridor, but that the distance between San Francisco and Los Angeles is more suitable to an overnight trip than is the distance between Montreal and Toronto.

Position of the Southern  
Pacific on Service and  
Promotion of the Lark Trains

Southern Pacific's Exhibit No. 7 lists the efforts made by Southern Pacific since July 20, 1966, to improve service and to promote passenger traffic on its Passenger Trains Nos. 75 and 76 between San Francisco and Los Angeles, as follows:

1. The statement in the Commission's Decision No. 70939 that Southern Pacific should take steps to improve the on-time performance of the Lark was circulated on August 16, 1966, to officers and employees of Southern Pacific.

2. Expenditure of \$130,000 to improve the operating efficiency in the vicinity of Burbank Junction, the point where Southern Pacific's Coast and San Joaquin Valley routes intersect. With the completion of construction, trains will operate on each of the two tracks in both directions. The Burbank Tower operator will be able

to move the Lark from one track to another in the event a freight train is ahead of the Lark on the same track, or the operator will use one of the two mainline tracks as a siding to hold a freight train.

3. Completion of the Santa Susana siding extension, 2,884 feet in length, with spring switches. This is improving the operating efficiency on the coast route by providing additional siding track for the holding of freight trains.

4. Realization of improvement in on-time performance of the Lark, Southern Pacific's Exhibit No. 2i shows the on-time performance for the period September 1966 through August 1967 of Train No. 75 from Los Angeles to San Francisco was improved to 93 percent and of Train No. 76 from San Francisco to Los Angeles was improved to 85 percent.

5. Change in breakfast service on Lark effective November 20, 1966. The new service was publicized by a news release to 345 outlets connected with newspapers, magazines and wire services and to 35 radio and TV stations, by a circular letter to interested officers and employees of Southern Pacific, by the Southern Pacific System Time Table and in The Official Guide of the Railways.

6. Assignment as regular equipment for the Lark trains of stainless steel sleeping cars, the most attractive and modern in the Southern Pacific's fleet.

Another Southern Pacific witness testified that for the period 1949 through 1958 Southern Pacific invested over \$1,729,000 in local advertising for its coastwise trains: the Shasta Daylight, the Cascade, the Lark, the Starlight and the Daylights, both in the valley and on the coast route. For the same 10-year period on an average \$930,000 was spent annually on promotion of all of its

passenger train service. The peak of passenger advertising and promotion was reached in 1953 when the sum of \$1,179,164 was expended for this purpose. As the need for funneling promotional funds into the services other than passenger became evident the manager of the advertising department reduced the amounts spent for advertising on the Lark and other Southern Pacific passenger trains. In 1957 Southern Pacific reduced such expenditures to \$456,000, in 1960 to \$339,000 and in 1963 to \$100,000. Because of the constant diminution of traffic of its passenger trains Southern Pacific management concluded it could not justify extensive advertising and promotion of its passenger train service.

This witness pointed out that even after Southern Pacific's management determined to curtail its expenditures for passenger train advertising and promotion, other lines such as the Pennsylvania, the Baltimore and Ohio, the Santa Fe and the Western Pacific continued to spend considerable sums of money on advertising and promoting their passenger train service without success, and that these railroad lines have subsequently curtailed such expenditures also.

Counsel for Southern Pacific stated that Southern Pacific's management considered that to have done more than it did to comply with the admonitions of the Commission in Decision No. 70939 would have incurred a needless dissipation of funds. He asked this Commission in viewing the actions of Southern Pacific's management to

consider the experience of the other railroads which to no avail were more lavish in promoting their passenger train services subsequent to the issuance of Decision No. 70939 and until very recently.

The Southern Pacific witness who testified regarding the alternate passenger service also testified regarding the substantial differences between: (1) the San Francisco-Los Angeles corridor, on the one hand; and (2) the Boston-Washington or Northeast corridor; and (3) the Montreal-Toronto corridor, on the other hand.

The Northeast corridor is a chain of very large cities, including Boston, Providence, New London, New Haven, Bridgeport, Stamford, New York City, New Brunswick, Trenton, Wilmington, Baltimore and Washington, spaced fairly close together. With the exception of San Jose there is no intermediate point between the San Francisco Bay Area and the Los Angeles Area which can match the above-listed cities in the Northeast corridor in population, economic activity and transportation potential. Between New York and Washington the Pennsylvania Railroad traverses essentially a flat terrain. The coast route of Southern Pacific traverses semimountainous terrain and the amount of curvature in the line and the radius which the cars traverse are substantially greater than over the route in the Northeast corridor. Also, in the Northeast corridor between New Haven and Wilmington there are no crossings of highway at grade with the rail line, whereas on the coast line of Southern Pacific there are a large number of such crossings. Between New York City and Washington there are 55 miles of triple track and the remainder consists of four or more running tracks. For the most part Southern Pacific's coast line is a single track operation.

The witness testified that prior to the inauguration of the Rapido by the Canadian National Railway in the Montreal-Toronto

corridor two thirds of the travel moved by air and after its inauguration approximately two thirds moved by rail. The air service in this corridor is operated by Air Canada. Both Air Canada and the Canadian National Railway are owned and subsidized by the Canadian government. The witness testified that there is much to indicate that Air Canada and C.N.R. were acting in concert under the direction of the Canadian government to divide the market in the Montreal-Toronto corridor between themselves. This is evidenced by the fact that Air Canada maintained its \$21.30 one-way fare between Montreal and Toronto despite the vastly improved service offered by the Rapido.

Between Montreal and Toronto the air miles are 315 and the rail miles are 335 or 106 percent of the air miles. Between San Francisco and Los Angeles the air miles are 340 and the rail miles traversed by the Lark are 470 or 138 percent of the air miles. There is a flat terrain and there are multiple track rails between Montreal and Toronto in contrast to the difficult mountainous terrain and single track line on Southern Pacific's coast route which has been previously described.

By reason of the differences between the San Francisco-Los Angeles corridor and the Northeast and the Montreal-Toronto corridors the witness concluded that the Southern Pacific does not have the opportunity economically to institute improved passenger services on the model of the Northeast corridor and the Montreal-Toronto corridor.

#### Public Witness Testimony

A total of 27 public witnesses testified at the hearings; nineteen were opposed and eight were in favor of discontinuance of the Lark trains.

Those who were opposed included representatives appearing on behalf of the Lompoc Chamber of Commerce, the Boards of Supervisors of the County of Santa Barbara and of the County of Los Angeles, the Executive Secretary of the Los Padres Chapter of the Sierra Club, a self-employed manufacturers agent, an electronics technician, a general agent for a life insurance company, a Santa Barbara attorney, three students of U. C. Davis, a Hastings Law School student, a Pierce College student, a Santa Clara High School student, the wife of an Assistant Professor at U. C. Santa Barbara, the President of the Utility Users League, two union representatives, and a semiretired newsman and writer.

Many of the above public witnesses related their experiences while traveling on the Lark trains. They pointed out the difficulties encountered in obtaining reservations and tickets for the Lark, and complained of the lack of leg rests and leg room on the coaches and the inadequacy of the meal service. Several expressed the view that Southern Pacific had downgraded the service for the purpose of discouraging passengers from using the Larks and were of the opinion that the Southern Pacific had deserted the businessmen passengers. Others testified regarding substantial delays in arriving at their destinations. The union representatives pointed out that some of these delays in arriving at Los Angeles resulted from the Lark having to follow Freight Train No. 374 after leaving Santa Barbara. Public witnesses at Santa Barbara testified that the present fares to San Francisco on the Lark are competitive with the air fares and that the trains offer more convenience to travelers going to the San Francisco Bay Area. One of the students at U. C. Davis took a survey of students living near the route of the Lark trains, Exhibit No. 20,



which showed that 54 percent of those included in the survey had not heard of the Lark and that 27 percent had heard of the Lark but did not know where it ran. The Executive Secretary of the Los Padres Chapter of the Sierra Club urged that the passenger trains should continue to operate to relieve the congestion on the highways and to alleviate the smog problem. The public witnesses in general wanted the service on the Lark trains continued and improved.

Representatives of the San Francisco Chamber of Commerce and the Los Angeles Area Chamber of Commerce testified that their organizations were supporting the discontinuance of the Lark trains because of the losses sustained by Southern Pacific in their operation and because of the slight usage of these trains by the public which indicated that their continued operation was no longer a public convenience and necessity. Representatives of shippers, including Allied Chemical Co., Calaveras Cement, Monolith Portland Cement Co., Southern California Edison Co., and Coast Carloading also testified in support of the application to discontinue the Lark trains. They testified that their officers and other employees use air transportation or private automobiles instead of using the Lark trains, and it was their opinion that no improvement in service or promotional efforts on the part of the Southern Pacific would induce the businessmen to change their preference for other modes of travel between points served by the Lark. These witnesses were also of the opinion that losses resulting from uneconomical passenger train operations would have to be borne out of other railroad revenues and ultimately would have an adverse effect on freight rates.

Findings

1. If Southern Pacific continues to operate Trains Nos. 75 and 76 it will incur an annual out-of-pocket loss before income taxes of at least \$880,100. This figure is derived by decreasing the staff's estimate of passenger revenues as shown on Exhibit No. 46 by \$41,900 to reflect a 13.3 percent instead of a 5 percent downtrend in traffic. No further adjustments have been made to reconcile the staff's estimates and the Southern Pacific's estimates because the adjusted staff estimate of out-of-pocket loss itself is so substantial.

2. Southern Pacific's annual out-of-pocket loss after allowance for income taxes at an effective rate of 27-1/2 percent will be at least \$637,800.

3. Since the last application (No. 48219) for discontinuance of the Lark trains was filed, the average daily number of revenue passengers using said trains has declined to 83 on Train No. 75 and to 73 on Train No. 76, an overall decline of 17 percent.

4. Although the Lark trains were designed primarily to attract the businessman, the business man has been driven away or has deserted the Lark trains. The average daily number of revenue pullman passengers has declined since said last application (No. 48219) from 26 to 16 on Train No. 75 and from 24 to 17 on Train No. 76.

5. Passenger traffic on the Lark trains has been declining for several years, and this trend will not be reversed by any economically feasible operation of these trains on the part of Southern Pacific.

6. Comprehensive alternative common carrier service for passengers by bus, air and rail exist between the points now served by the Lark trains.

7. The private automobile is the predominant passenger carrier in the San Francisco-Los Angeles corridor.

8. Highway construction and improvement programs which are under way and projected for the corridor will, in the future, provide highways superior to those now available, thus supporting past trends of greater reliance upon the private automobile for passenger travel requirements in this corridor.

9. The management of Southern Pacific made only a minimal response to this Commission's admonition to compete in the open market by aggressively advertising and promoting its own passenger train service on the Lark trains.

10. Train operations in the Northeast corridor and the Montreal-Toronto corridor do not provide suitable yardsticks for comparison studies involving the operation of the Lark trains in the San Francisco-Los Angeles corridor.

#### Conclusion

1. By its overwhelming preference for the alternative modes of passenger travel in the San Francisco-Los Angeles corridor, the public has demonstrated that it does not consider the service of the Lark trains to be a convenience, and the continuance of the operation of the Lark trains at a substantial out-of-pocket loss to Southern Pacific is no longer a public necessity.

2. The staff's motion to dismiss the application should be denied.

3. Southern Pacific should be authorized to discontinue the operation of Trains Nos. 75 and 76 between San Francisco and Los Angeles.

O R D E R

IT IS ORDERED that:

1. The motion of the staff to dismiss the application herein is denied.

2. The Southern Pacific Company is hereby authorized to discontinue the operation of its Passenger Trains Nos. 75 and 76 between San Francisco and Los Angeles and intermediate points.

3. Applicant shall cancel, in conformity with the rules of this Commission, the passenger timetables and passenger tariffs applicable to the operation of Trains Nos. 75 and 76 between San Francisco and Los Angeles and intermediate points.

4. 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 respecting the discontinuance of Passenger Trains Nos. 75 and 76 in said trains and in the agency stations involved.

5. Applicant shall notify this Commission in writing of the date of the discontinuance of each of the passenger trains as herein authorized within ten days after the discontinuance of each of said passenger trains.

6. The authorizations herein granted, if not exercised within six months from the date hereof, shall expire six months from the date of the issuance of this order.

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

Dated at San Francisco, California, this 12th day of March, 1968.

*[Signature]*  
\_\_\_\_\_  
President

*[Signature]*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
Commissioners

*I dissent, my reasons will be set forth separately.*  
*Hallam B. Bennett*

*I dissent.*  
*Peter E. Mitchell*

WILLIAM M. BENNETT, COMMISSIONER, DISSENTING

It has all turned - and it has turned for the worse. Regulation is for the protection of the public - not the utilities. Utility services and products are dispensed for the benefit of the public - not the utilities. This Commission was created by Hiram Johnson to protect the public against exploitation by utility interests.

The sad state of utility regulation in California in the year of our Lord 1968 is quickly seen by looking to the almost contemporary history of the Lark. And the supine position of my brethren is almost startling to me as a Commissioner and a lawyer with some regard for Commission precedent. In the past Commission decisions were meant to have some degree of finality. Not so, however, in 1968 with a new style of regulation which according to my philosophy represents an abandonment of public responsibility.

Now comes the Southern Pacific which was told in 1966 by a unanimous Commission that it was not to abandon the Lark. Further the Southern Pacific was directed and ordered to recruit patronage by advertising and to improve service. The Southern Pacific brazenly advised the Commission in oral argument that it did neither of these things -- "management" choosing not to comply.

"COMMISSIONER BENNETT: Mr. Burkett, as far as advertising is concerned, your advertising before the decision of July 1966 and the advertising today is the same; no change was made in the advertising?"

"MR. BURKETT: As far as I know, there was no change."  
(p. 1079)

"MR. BURKETT: Well, the attitude is we have considered that it would be, if we advertised, would be an improper dissipation of corporate funds to spend money to directly advertise the Lark." (p. 1091)

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The construction I place upon the position of the Southern Pacific as frankly stated in oral argument before this Commission is that it deliberately disregarded the directives of the public agency which regulates it -- and with impunity as today's decision shows.

In the 1966 decision we said: "This Commission hereby places Southern Pacific on notice that it will not authorize the discontinuance of any passenger trains unless it has first been clearly demonstrated that Southern Pacific has made a sincere effort to compete in the open market with other modes of transportation."

The American system of public utility control permits the creation of monopolies, controlled, however, by strong regulation. It is proper that the public utility industry of California be financially healthy and strong just as it is imperative that regulation be strong, vigorous and militant toward the interests of consumers. The compact has been broken and the balance has shifted. That the utilities are strong is beyond argument - that regulation is weak is becoming increasingly evident as today's decision indicates. It is to the best interests of the public utility industry of the State of California that regulation remain strong if the present system of utility controls is to have validity and popular acceptance. The history of public utility regulation in California shows that Hiram Johnson and the Progressives turned away from a system of public ownership upon which he had been elected to the present system of a strong Commission. Those Californians made this choice upon the firm expectation that regulation would work as a substitute for public ownership.

The Southern Pacific has consistently ignored the needs of the travelling public of California. It has failed to advertise, it has downgraded service, it has ignored schedules, it has failed

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to experiment as have Eastern lines with the high speed trains. All of this is based upon the greed for profit at the expense of people and upon an ignorance of the needs of the State of California. Freeways are becoming increasingly inadequate for transportation, airlines are hard put for suitable land space for additional airports, automobiles are nothing but smog producers with deleterious consequences to health and life. The only feasible, existing and available means of surface transportation is found in the passenger train and a railroad with any degree of vision as well as self-interest would be planning with public agencies a statewide transportation network. California should be viewed as it will be in 1980, 1990 and in the year 2000. And the day will come and soon when the people of California will be required to tax themselves as was required with BART to place into service a 21st Century transportation system.

Such a system should be planned using existing rights of way and compensatory arrangements with California's railroads. It should be a coordinated effort calling upon the expertise of the California railroads and it should be undertaken as soon as possible. It will not be, however - Southern Pacific does not cooperate with BART, with the West Bay Rapid Transit Authority or with this Commission. The oral argument discloses:

"COMMISSIONER BENNETT: Do you have any plans to put in a rapid service between San Francisco and Los Angeles such as Pennsylvania is trying to do in the East?

"MR. BURKETT: No, sir, we have not. ..." (p. 1099)

"COMMISSIONER BENNETT: Would you have any opinion, assuming that one day we would need passenger trains, and since your Company isn't going to provide them, would they lease them or loan your train for some State type transit system?

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"MR. BURKETT: We need our trains, Mr. Bennett, for the continuing growth -- the shipping public for the State of California; and as far as the loan experience, whenever we attempted to use our right of way with other companies it has resulted in substantial deterioration of our service.

"COMMISSIONER BENNETT: You would just have to double the whole system if you want a public train to be operated in the future?

"MR. BURKETT: Well, I don't know. ..." (p. 1100)

Californians and agencies concerned with planning should be aware of the efforts of the Eastern lines toward public responsibility. The New Haven Railroad and the Pennsylvania Railroad together with train manufacturers and the federal government will shortly utilize high speed passenger trains at speeds up to 110 miles an hour. New stations are being built, old ones rejuvenated, and there is a company emphasis upon service to let the passenger know that his needs are to be first. The trains are as modern as a jet liner with plush interiors, featuring taped music, indirect lighting, carpeted floors, comfortable padded reclining seats, a reading light, a smoking car and air conditioning. The ride is smooth as to seem almost motionless. These trains known as the Turbo-Train and the Metro Liner will be an investment in excess of \$60 million of equipment along the Eastern transportation corridor. The Boston to New York run will be made in about 3 hours and the New York to Washington, D.C., 227 mile run will be made in slightly more than 2 hours. These are unique trains unlike any ever previously built. The Southern Pacific should be advised from this opinion that these trains have come into being because despite the expenditure of \$120 billion on airways, waterways and highways, transportation in the United States is becoming increasingly difficult.

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It is common knowledge that highways and airports are overcrowded and frequently air travellers spend more time en route to planes or reverse than in flying. Note this significant fact in terms of railroad economics -- on a single track these trains can haul 60,000 persons in an hour regardless of weather and without delay. There is a strange paradox in our society that this nation has become second rate in the railroad business to Europe and Japan whereas at one time it was first. If only the Southern Pacific had the vision and sense of responsibility of either the Pennsylvania Railroad or the New Haven! It will be but a matter of time before there is widespread acceptance of the fact that the public wants fast, dependable and convenient transportation.

It is relevant to me and to today's action that the Southern Pacific through its President admitted the screening of candidates for this Commission and I note this deliberately. It goes a long way toward explaining our failure to reduce utility rates when excessive. The public utilities of California and the Southern Pacific, all of them, have no fear of the Public Utilities Code, our constitutional authority, our great powers, having entrusted them to a safe Commission.

I draw great significance from the fact that today's decision which gives away a train was quickly decided and quickly signed out by my colleagues without discussion, delay or individual requests for "more time". On the other hand proceedings involving possible contempt by the Southern Pacific have met all manner of difficulty and thus far the Commission has been unable to issue any decision determining whether or not the conduct of the Southern Pacific was contemptuous. The contempt proceedings have been before the Commission for many weeks now. The proceedings involving contempt were quick with only 2 days of hearing but still the

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Commission is unable to reach a decision. And today significantly

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the contempt proceedings have been reassigned by the President of the Commission to himself, reassigned to another examiner and whatever is written now in the contempt proceedings will be by an examiner who did not sit on the case, was in no position to judge the witnesses by his nonpresence and his decision will be dictated by a Commissioner who opposed the initiation of contempt proceedings in the first instance.


There have been 33 or more train discontinuances within the State of California since January 1950. These discontinuances amount to an annual and ever recurring dollar savings of \$13,318,000. In that same period agency discontinuances resulted in dollar savings of \$1,241,737. The total annual dollar savings which are a present and recurring benefit to the California railroads is the impressive figure of \$14,559,737. And in a period of ten years this savings will, of course, amount to 140 million dollars by way of rounding it off to an impressive figure. And incidentally these savings were not used in the slightest to reduce rates to shippers or any other users of railroad service.

I should also point out that the savings resulting from the elimination of extra personnel upon trains has been estimated to be substantial.

California and the nation are in a transportation crises. We have been brought to this point by short sighted management which today is not only short sighted but irresponsible. When the public cannot obtain through the usual means satisfaction of its needs, then it must resort to government and I reiterate here again my publicly stated proposal for the creation of a statewide transportation agency possessing statewide powers including the power of condemnation, of use of railroad rights of way, the power to lease equipment and to lease and employ personnel to operate a

public train system in California. The unthinkable alternative to the failure of responsibility by the railroads is simply a completely immobilized society.

It is ironic that this Commission did not even wait until the Interstate Commerce Commission acted upon the plea of Southern Pacific to abandon another train. Our supine acquiescence to the wishes of Southern Pacific comes at a time when the Congress of the United States is being asked to declare a moratorium upon passenger train abandonment and when the ICC is beginning to stir itself toward preserving the few remaining trains.

  
William M. Bennett  
Commissioner

DATED: San Francisco, California  
March 12, 1968

COMMISSIONER PETER E. MITCHELL DISSENTING:

The Southern Pacific Lark has always been an integral link in the communications network of communities in northern and southern California. The value of the Lark's service to the people of the State of California has long outweighed any alleged ascendancies in its attendant cost of operation. Were we to insist on a strict cost of service rationale in utility regulation, the suburban population of our state would be penalized unconscionably. There is no question that the cost of providing telephone service, natural gas service, electric service and even water service is greater to subscribers who live outside the city. Indeed, the Southern Pacific claims that its cost of service for its intrastate freight operation is greater than its revenue. Should we, therefore, eliminate the telephone service, gas service, electric service and water service to those people who cannot pay the price? Should the Southern Pacific abandon its intrastate freight operations? Obviously not, for the value of service concept in all utility operations has an equivalent weight with the cost of service.

The decision by the majority authorizing discontinuance of the Lark unfortunately makes irrevocable its cessation of service. The immediacy of so many alternatives to abandonment insist that the Commission should require the continuance of the Lark until final resolution of all significant proposals. The California Public Utilities Commission and its staff have advocated numerous reforms for the improvement of passenger traffic on the Southern Pacific Lark. Staff Exhibit No. 42 relates the past Commission actions in urging and ordering the Southern Pacific to upgrade its service on the Lark.

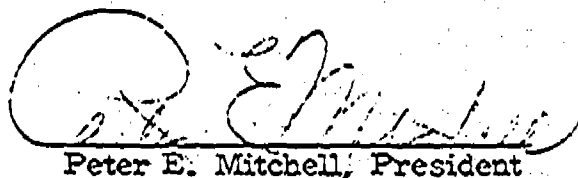
Decision No. 70939, Application Nos. 48219, 48220, 48356 and Case No. 8378, dated July 1, 1966, ordered the Southern Pacific to take certain steps to promote passenger traffic on the Lark. As the majority decision states, the Southern Pacific admits that they did not comply with Decision No. 70939, inasmuch as in their opinion it would have incurred a needless dissipation of funds. Essentially, both the Commission and its staff have proposed increased advertising, better service, fare incentives and aggressive solicitation and sales efforts by the Southern Pacific. There has been no attempt by the railroad to carry out the orders of this Commission. Were the Southern Pacific (as well as other railroads in the country) to expend as much enthusiasm in promoting passenger traffic as it is doing in filing applications for passenger train abandonment, its passenger problems today would be de minimus.

Another immediacy in connection with the Lark service are the hearings scheduled before the Interstate Commerce Commission commencing next week on the Southern Pacific's petition to discontinue the Lark. The Interstate Commerce Commission is emphasizing "a new look" at passenger train abandonments. Certainly the expertise of its staff and of our staff could be utilized to present testimony which would develop a full record for the consideration of the Interstate Commerce Commission and the Federal Government. Also, as another avenue of relief, remedial legislation has been suggested at the Congressional level to rescind the carte blanche given railroads to abandon passenger service by the Passenger Act of 1958.

This Commission has presided or been represented at the demise of many passenger trains. The list is too numerous to present in this short statement. The Southern Pacific and other railroads have

been allowed, by this Commission and other regulatory bodies, to retain (by their own figures) millions of dollars per year in savings as passenger train after passenger train is discontinued. Nevertheless, the Southern Pacific has not attempted to apply any of the passenger train savings in compliance with our Decision No. 70939 and previous decisions of this Commission relating to passenger service.

Passenger train service in the State of California and in the United States is not a luxury but a necessity. For many people our action today narrows still further their ability to travel. We cannot and should not authorize the isolation of communities which depend on the railroad. I do not believe that the discontinuance of the Southern Pacific Lark is in the best interest of the public or the utility. The basic purpose of regulation is to assure adequate service to all public utility patrons without discrimination. The benefit in today's decision has shifted to the railroad and the burden to the people of the State of California.



Peter E. Mitchell, President

San Francisco, California

March 14, 1968