

Decision 98-05-054 May 21, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WESTERN RAILROAD, INC. for authority to modify scheduled commuter passenger service and seek relief from regulated excursion passenger scheduling and fares.

Application 97-08-007
(Filed August 5, 1997)

Gary Milliman and Sean J. Hogan, Attorney at Law, for California Western Railroad, Inc., applicant.
Bruce Richard, for Mendocino Transit Authority, and Johanna Burkhardt, Emile's Station, for herself, interested parties.
James T. Quinn, Attorney at Law, and James R. Panella, for the Rail Safety and Carriers Division.

FINAL OPINION

Summary of Decision

In response to a motion by California Western Railroad, Inc. (applicant), this decision dismisses without prejudice the remaining issues in this proceeding and closes the proceeding.

Background

California Western Railroad, Inc. (CWRR) transports passengers and freight between Fort Bragg and Willits, California. CWRR also serves a few communities between Fort Bragg and Willits in the Noyo River Valley.

CWRR currently provides one round trip daily except on Thanksgiving Day, Christmas Day, and New Year's Day (362 days a year) from Fort Bragg to Willits and returning to Fort Bragg. CWRR charges commutation fares and

special intermediate point round-trip-ticket fares for its service. Additionally, at various times of the year, CWRR operates trains between Fort Bragg and Northspur and less frequently between Willits and Northspur. Northspur is located approximately midway between Fort Bragg and Willits.

In addition to the passenger service CWRR also provides excursion passenger service to tourists on its famous "Skunk Train."

CWRR filed this application to seek Commission approval to reduce its commuter service to three days a week during the winter months of October through March. CWRR also seeks relief from regulation by the Commission of its excursion service.

Hearings

Public participation hearings (PPHs) on the application were held in Willits (on October 22, 1997) and Fort Bragg (on October 23, 1997) before Administrative Law Judge (ALJ) Garde. In addition to the PPHs, a prehearing conference (PHC) was held on October 23, 1997 in Fort Bragg.

At the PHC, the ALJ bifurcated the proceeding into two phases. The first phase addressed CWRR's request to deregulate its tourist or excursion passenger service. The second phase addressed the issue of reduction in commuter passenger service.

It was agreed that the issue of deregulation being a legal issue could be addressed through the filing of briefs.

Based on the briefs filed, the Commission issued Decision (D.) 98-01-050 on January 21, 1998, which concluded that the excursion passenger service provided by CWRR should not be subject to Commission's regulation.

An evidentiary hearing in the second phase was held in Fort Bragg on December 4, 1997.

Concurrent briefs in the second phase were filed on January 21, 1998.

On February 17, 1998, CWRR filed a motion withdrawing its request to reduce commuter service. CWRR requests that the Commission Interim Opinion be made the final order in this proceeding and that the remainder of the application be dismissed without prejudice.

In the interim, on February 11, 1998, Commission's Rail Safety and Carriers Division (RSCD) filed a motion to strike portions of CWRR's briefs that challenges the Commission's jurisdiction over CWRR's passenger service or, in the alternative, a motion for leave to file response to CWRR's position. Based on CWRR's February 17th motion, RSCD's motion is moot. We will deny the motion.

No comments or protest on CWRR's motion to withdraw its request to reduce its commuter service have been filed.

Discussion

CWRR's request to reduce its commuter service is opposed by majority of the parties. Granting of CWRR's motion will be in the best interest of passengers which use CWRR's services. We will grant CWRR's motion to withdraw its request to reduce its commuter service and to dismiss the remainder of the application without prejudice.

Comments on ALJ's Proposed Decision

ALJ's proposed decision was filed and mailed to parties on April 20, 1998. No party has filed comments on the proposed decision. Accordingly, we will issue the decision as proposed after correcting an error from the proposed decision.

Findings of Fact

1. CWRR requests to withdraw its request to reduce its commuter service and to dismiss the remainder of the application without prejudice.
2. Granting of CWRR's motion would be in the best interest of the passengers which use CWRR's service.

Conclusions of Law

1. CWRR's motion to withdraw its request to reduce its commuter service and to dismiss the remainder of the application without prejudice should be granted.
2. The proceeding should be closed.

FINAL ORDER

IT IS ORDERED that:

1. California Western Railroad's motion to withdraw its request to reduce its commuter service and to dismiss the remainder of the application without prejudice is granted.
2. Since there are no issues remaining to be considered in this proceeding, this proceeding is closed.

This order is effective 30 days from today.

Dated May 21, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners