

Decision No. 12695

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of
PALM GARAGE TRANSIT COMPANY for cer-
tificate of public convenience and
necessity to operate auto stages for
the carriage of passengers between
Hollywood, California, and Universal
City, California.

Application No. 8815

In the Matter of the Application of
UNIVERSAL CITY STAGE LINE to lease
certain automobile stage line operat-
ing rights.

Application No. 9197

R. L. McNitt for Applicants S. C. and T. M. E. Hamilton.

Fred Aberle, Jr., for Palm Garage Transit Company,
Applicant on re-hearing.

Hubert Starr for Pacific Electric Railway, Protestant
in re-hearing.

BY THE COMMISSION:

OPINION AND ORDER ON RE-HEARING.

The Commission having on July 24th, 1923, made its order herein setting aside decision heretofore made in this proceeding under date of June 23, 1923, Decision No. 12254, on Application No. 8815, and having granted a re-hearing upon petition on the matters considered in said decision, a further hearing herein was held by Examiner Williams at Los Angeles, the matter was duly submitted and now is ready for decision.

Universal City Stage Line has made application to the Com-
mission for approval of the lease of its operating rights between

the intersection of Hollywood Boulevard and Cahuenga Avenue and Universal City, to A. L. Pinney.

A public hearing as to both matters, which were, by stipulation of all parties, consolidated for the receiving of testimony and decision, was conducted by Examiner Williams at Los Angeles.

By Decision No. 12254 on Application No. 8815, applicant was denied a certificate of public convenience and necessity to operate automobile stage service between Cahuenga and Hollywood Boulevard and Universal City. A service has been for several years maintained between these terminals by the Universal City Stage Line, which protested the application on the ground that its service is adequate.

On July 7th Universal City Stage Line filed application herein to lease its operating rights to A.L.Pinney, and on July 17th Palm Garage Transit Company, applicant in Application No. 8815, filed an application for a re-hearing of Decision No. 12254 therein, which application was granted by the Commission and the two matters set for simultaneous hearing.

In this application for re-hearing applicant submitted affidavits and copies of agreements between Universal City Stage Line and L. V. Davis and E.F.Chapman and alleged that the contracts between the Universal City Stage Line and the parties named were by agreement and order of the Hamiltons, owners of the line, made only for the purpose of deceiving the Railroad Commission, and that such contract leases were never carried out by either party.

Petitioners in re-hearing examined as a witness S.C.Hamilton, one of the owners of the Universal City Stage Line, and this witness admitted that he had told Davis and Chapman that the lease between

the Hamiltons and Chapman would not be in effect but that each man would pay \$30.00 a week for the privilege of occupying a run, and further that he instructed Davis and Chapman if they were questioned by an inspector of this Commission, to inform him that the operation was conducted on a salary and car-rent basis instead of the actual renting of a run privilege. These facts were also testified to by Davis and Chapman.

A. L. Pinney, co-applicant with the Hamiltons in the application to lease the operating rights, testified that he had been operating from July 11th until the time of the hearing and that his receipts had been daily from \$9.00 to \$15.00, all of which he retained. According to a copy of the lease filed between Pinney and the Hamiltons, dated August 13th, 1923, Universal City Stage Line agreed to pay \$60.00 a week, weekly, for the lease of one automobile to be used in the service. Pinney testified that he used two automobiles part of the time and that he had never received \$60.00 a week from the Hamiltons for the use of his car and the salary of a driver. Petitioners in re-hearing also alleged that although the Universal City Stage Line agreed to make improvements in this equipment and service, that no such improvements had been made, and that the only change was the turning over of the operation to Pinney to conduct, the Hamiltons retiring their own obsolete equipment. This allegation was not denied by the Hamiltons.

In determining Application No. 8815, Decision No. 12254, the Commission said:

" In general the testimony shows that the service rendered by protestants has not fully met the reasonable requirements of the public either in efficiency or adequacy but that the operating conditions and available traffic have not been the most encouraging. Considering that the Universal City Stage has pioneer-

ed the service and has sustained losses in serving the public, it seems that the assurance given by the owners of new equipment of large capacity and other improved facilities should be accepted as an equitable response on their part and that they should forthwith make proper improvements."

Testimony in re-hearing clearly shows that the Universal City Stage Line made no effort to improve its service or facilities, but only sought to capitalize the attitude of the Commission for the purpose of transferring its right to another.

Applicant Palm Garage Transit Company introduced no additional testimony as to necessity for a service, it being stipulated that the testimony upon the original hearing be considered as the testimony upon re-hearing. There has been no question at any time as to the necessity for a service between the points named. In the original proceeding Applicant Palm Garage Transit Company showed its ability to provide adequate equipment, to provide a waiting room for passengers, and at lower fares than those charged by the Universal City Stage Line. There was not proof of necessity requiring two independent services, but there was abundant proof that the public expects adequate and efficient service and that it had not received this service at the hands of the Universal City Stage Line. In Decision No. 12254 the Commission offered to the Universal City Stage Line an opportunity to put itself in a position to give adequate and efficient service. This the carrier has not done. Applicant Palm Garage Transit Company is in readiness to provide, at less rates, a much better service, and we are of the opinion that it should be permitted to do so.

As to the lease of the operating right of the Universal City Stage Line to Pinney, we are of the opinion that the testimony

introduced in support of it does not justify releasing the Hamiltons from their operating duty, or transferring it to another when there is an applicant before the Commission, such as the Palm Garage Transit Company, with clean hands and apparent ability to establish proper service, seeking a certificate.

O R D E R

Universal City Stage Line, S. C. and T. M. B. Hamilton, co-partners, proprietors, have made application to the Railroad Commission for approval of a lease of their operating rights to A. L. Pinney. A public hearing having been held, matter having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that Application No. 9197 herein be and the same hereby is denied.

Palm Garage Transit Company having applied for a re-hearing on Decision No. 12254 on Application No. 8815 herein, such re-hearing having been held, the matter having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that Decision No. 12254, dated June 23, 1923, be and the same hereby is set aside; and

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of automobile passenger service between Hollywood Boulevard and Cahuenga Avenue, in the City of Los Angeles, and Universal City, a community exterior to the City of Los Angeles, by the Palm Garage Transit Company, G. J. Knight, owner, over and along the following route:

Cahuenga Avenue and Lankershim Boulevard,

and that a certificate of public convenience and necessity therefor

be and the same hereby is granted, subject to the following conditions:

- I. - That applicant will within fifteen (15) days file with this Commission its written stipulation accepting the certificate herein granted.
- II. - That applicant, Palm Garage Transit Company, shall file within ten (10) days from the date hereof, its written acceptance of the certificate herein granted and shall file within twenty (20) days of the date hereof, duplicate tariff of rates and time schedules, in accordance with General Order No. 51 of the Railroad Commission, and that operation of such service shall begin within a period of thirty (30) days from the date hereof.
- III. - That the applicant, Palm Garage Transit Company, shall not sell, lease, assign, or discontinue the service herein authorized, unless such sale, lease, assignment, or discontinuance shall have been authorized by the Railroad Commission.
- IV. - That no vehicle shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 13th day
of October, 1923.

C. Shaver

David Masten

J. T. Whittney
Commissioners.