

ORIGINAL

Decision No. 13841

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of UNITED STAGES, INC., for a certificate of public convenience and necessity to operate a passenger auto stage and express package service between Santa Monica and Los Angeles, via Pico Boulevard, and all intermediate points.

Application No. 8765.

In the Matter of the Application of PACIFIC ELECTRIC RAILWAY COMPANY, a corporation, for a certificate of public convenience and necessity to operate an automobile stage service between the intersection of West Boulevard and West 16th Street in the City of Los Angeles and the intersection of Ocean and Utah Avenues in the City of Santa Monica, California.

Application No. 9391.

In the Matter of the Application of BAY CITIES TRANSIT COMPANY, a corporation, for certificate of public convenience and necessity to operate a passenger bus line from Sherman Drive, Los Angeles, California, to Fourth Street and Santa Monica Boulevard, Santa Monica, California.

Application No. 9404.

In the Matter of the Application of D. G. HENDERSON for certificate of public convenience and necessity to operate a passenger bus line service on Pico Street between Mullen Avenue, in Los Angeles City (which is the western terminus of the Los Angeles Railway Company's Pico Street car line) and Main Street, Santa Monica, and intermediate points.

Application No. 9566.

T. Morgan, for the United Stages, Inc.
Robert E. Abbott, for Bay Cities Transit Company.
C. W. Cornell, O. A. Smith and R. C. Gortner, for
the Pacific Electric Railway Company.
Dockweiler, Dockweiler & Finch, for D.G. Henderson.

Chester L. Coffin, City Attorney, for the City
of Santa Monica.

T. A. Woods, for the American Railway Express Company.

H. G. Weeks, for the Los Angeles Railway Company.

Guy R. Crump and Frank E. Snyder, for the Greater
Pico Street Association.

SEORE, Commissioner:

OPINION ON REHEARING

In these matters the Railroad Commission, in Decision No. 13232, dated March 1, 1924, granted to Pacific Electric Railway Company, a corporation, a certificate of public convenience and necessity to operate an automobile stage service between the intersection of West Boulevard and West 16th Street in the City of Los Angeles, and the intersection of Ocean and Utah Avenues in the City of Santa Monica, via Pico Boulevard, in the County of Los Angeles, California; and denied the other three applications.

Petitions for rehearing were filed by the City of Santa Monica and Greater Pico Street Association, Inc. The Commission having granted a rehearing by Order issued April 2, 1924, a rehearing was had in Los Angeles on April 24th and 25th and May 8th and 9th, 1924, when the matters were duly submitted on briefs. Briefs have been filed and the matters are now ready for decision.

The petition for rehearing filed by the City of Santa Monica alleged, (a) that an order granting such a certificate should not have been made by the Commission without imposing as a condition the obtaining of a permit or franchise from the City of Santa Monica for the use of the streets within the City of Santa Monica, (b) that there was injected by the Commission, there being no application by any of the applicants to that effect, the question of the ability or willingness of any of the applicants to establish and maintain a rail line over the

route mentioned at a future date, and that the Commission, exceeding its jurisdiction, imposed such a provision in the Order granting the certificate, (c) that the City of Santa Monica can produce evidence upon a rehearing to prove that said decision would deprive its citizens of a low fare compatible with adequate transportation service between the City of Santa Monica and the City of Los Angeles, that the citizens of Santa Monica are now at the mercy of the Pacific Electric Railway Company in the matter of transportation rates and services to Los Angeles and that there are no practical means of obtaining relief from alleged excessive railway rates because the factors that enter into the regulation of rates are so varied and require such a degree of expert auditing as to make it impracticable for such a community as the City of Santa Monica to institute proceedings for relief from rates now charged by the Pacific Electric Railway Company.

The petition filed by the Greater Pico Street Association, Inc., alleged, (a) that the schedule of fares authorized under the certificate granted to the Pacific Electric Railway Company are in the main excessive and unreasonable, (b) that the Railroad Commission exceeded its legal authority in providing in the Order granting the certificate for a possible future rail line over Pico Boulevard, (c) that the Los Angeles Railway operates a line over Pico Boulevard to Mullen Avenue near Vineyard Station and that to grant the Pacific Electric Railway Company or any other company the right to build a rail line over Pico Boulevard from Mullen Avenue to the west city limits would prevent the said Los Angeles Railway Company or any other company from exercising a lawful right to secure a franchise for the extension of or building of an independent line over said street within the district which is wholly within the City of Los Angeles.

Subsequent to the date of the Commission's Decision No. 13232 and prior to the date of the rehearing, the Pacific Electric Railway

Company filed with the Commission a tariff schedule reducing some of the fares provided for in its original tariff schedule filed with its application. At the rehearing the Pacific Electric Railway Company filed another amended tariff schedule further reducing some of its fares between intermediate points and from intermediate points to termini but not reducing its proposed through fares, single or round trip, between Los Angeles and Santa Monica. During the rehearing the Pacific Electric Railway Company, through the statement of its Passenger Traffic Manager, O. A. Smith, offered to issue transfers to or from its proposed Pico Boulevard bus line from or to any of its local railway lines within Santa Monica, Ocean Park or Venice.

Applicant D. G. Henderson at the rehearing also amended his application, eliminating any operation between the terminus of either of the railway lines at or near Vineyard Station and the downtown section of Los Angeles, and filing a new schedule of rates, the general effect of which was an increase over the rates proposed ^{as amended} in his original application except as to through fares between termini.

At the rehearing in those matters, E. G. Weeks entered appearance on behalf of the Los Angeles Railway Corporation and protested against any certificate being granted by the Commission for motor bus transportation that would parallel that railway company's existing service in the City of Los Angeles.

H. A. Lorentz, Chief Engineer of the Board of Public Utilities of the City of Los Angeles, testified at considerable length in support of the certificate to Pacific Electric Railway Company as provided in the Commission's Order in Decision No. 13232. Mr. Lorentz particularly pointed out the importance of the co-ordination and ultimate unification of the transportation systems within the City of Los Angeles and referred to pending surveys looking to the perfecting of such a co-ordination. He emphasized the importance of the Commission

recognizing Pico Boulevard as one of the main thoroughfares between Los Angeles and the Sea at Santa Monica and of providing for railway service within the near future along a route closely parallel to Pico Boulevard. He stated that in his opinion the time was now ripe for railway service along Pico Boulevard to a distance of three miles beyond Vineyard. He also stated that in his opinion Pico Boulevard should in the main be reserved as a thoroughfare for vehicular traffic and that when the railway line is established it should preferably be along a private right-of-way or an adjacent street closely parallel to Pico Boulevard. He further supported the limitation of the proposed motor bus line to a terminus at or near Vineyard Station, stating that the present congested condition of the street traffic in the downtown section of Los Angeles makes it very undesirable for additional motor bus transportation from outside points to operate in that congested area.

J. C. Steele, Mayor of the City of Santa Monica, and seven other witnesses testified on behalf of the City of Santa Monica in support of the application of the Bay Cities Transit Company. These witnesses urged the importance from the standpoint of the citizens of Santa Monica of securing lower rates if possible between Santa Monica and Los Angeles than those that now apply over the Pacific Electric Railway lines and also emphasized the desirability of having transfers from the proposed Pico Boulevard motor bus line to and from the existing transportation lines within the City of Santa Monica. These witnesses claimed to express the feeling of many citizens in Santa Monica that the only way in which they could hope to secure relief from what they believed to be unreasonable rates over the present railway lines would be by means of some form of competitive transportation between Santa Monica and Los Angeles.

In addition to these witnesses, testimony was further given by officers of the Bay Cities Transit Company and by the Passenger

Traffic Manager of the Pacific Electric Railway Company.

There was no active participation in this rehearing by either the United Stages, Inc. or D. G. Henderson, except that counsel for D. G. Henderson filed an amended application with an amended tariff schedule of rates and made a statement that said D. G. Henderson would undertake to abide by those amended rates for a period of two years and would meet any losses that might be sustained in these operations within that time from other sources of his private funds.

Practically all of the testimony in the hearings throughout this proceeding has gone to show that the transportation over or near Pico Boulevard between Los Angeles and Santa Monica will within a short time prove to be transportation of a major character, that the population is rapidly developing throughout the entire district bordering along Pico Boulevard and that the proposed initial service of from 45 minutes to 60 minutes headway would apply only to the early period of the operation, that within a year or so a 15 minute service would be required and that eventually a still more frequent service will be necessary.

In considering the granting of certificates of public convenience and necessity, it is the policy of the Railroad Commission to require evidence of the financial ability and responsibility of the applicant commensurate with the character and extent of the operations proposed. This is particularly necessary in considering the granting of a certificate for a proposed operation that, beginning in a relatively small way, will soon inevitably grow into operations on a large scale. Without such provision the public cannot be assured of adequate or permanent service.

Accordingly the question of the financial ability and responsibility of the respective applicants in these matters with respect to the proposed operations was given serious and extended consideration.

It was shown that the Pacific Electric Railway, with its large capital and resources, and with its demonstrated ability to finance new developments involving the expenditure of hundreds of thousands or millions of dollars, and with its present large equipment of motor busses, its announced policy to broadly increase its motor transportation business, having already purchased and now available for operation a number of the Fageol motor busses of 29 passenger capacity which it proposes to operate on this route, is financially able and ready to proceed with this proposed operation and to increase its equipment as the public necessity demands.

The testimony in the original hearing in these proceedings showed that D. G. Henderson is financially able to meet the requirements of the proposed operation over Pico Boulevard and that he has been a successful operator of rent motor busses for sight-seeing, subdivision and motion picture purposes in Los Angeles, but has not operated motor busses in regular city or suburban transportation involving time schedules and fixed individual rates.

United Stages, Inc. has conducted successful operations of motor stages on long distance lines to Imperial Valley and other points in Southern California. The testimony of T. Morgan, President and General Manager of this corporation, given at the original hearing in these proceedings, showed that this company had not at that time the available funds with which to establish the proposed operations on Pico Boulevard but that Mr. Morgan personally held securities in another motor transportation company which he believed could be sold for about \$30,000 and that he could, with such proceeds, finance the purchase of the initial equipment required for the proposed operation on Pico Boulevard. The availability of such funds for immediate operations being of a more or less speculative character and no further evidence having been given by this company to show that it would be able and prepared to finance

the purchase of the necessary additional equipment that would be required to meet a 15 minute or better service within a year or so, and having in mind the extensive obligations for long distance service already assumed by this carrier, the Commission is doubtful whether this company is financially prepared, in justice to its existing public obligations, to assume this additional responsibility at this time. Its proposed rates, moreover, do not offer any more attractive basis than the other applicants.

Bay Cities Transit Company revealed, both in the original hearing and in the rehearing, that it does not possess the funds necessary to pay for the initial equipment required in the proposed operations and that outside of the speculative possibility of selling stock not now authorized to the public, which, however, it would not be willing in any case to sell to such an amount as to lose control of the company, it would have to depend upon borrowed money to begin the proposed operations and upon surplus earnings to pay the capital cost of the initial equipment and for the purchase of the additional equipment that would be required for a more frequent than 45 minute service. Counsel for this company stated that arrangements had been made whereby it could borrow \$10,000 from the bank on its note. This would, however, only pay for about 40 per cent of the cost of the initial equipment and would be payable to the bank within a limited period of time. In the earlier part of the rehearing a citizen of Santa Monica, R. E. Burke, expressing an earnest desire to secure for Santa Monica a competitive transportation service, offered on behalf of himself and certain of his associates to investigate the affairs of this company and if its financial condition justified such an undertaking, they would be prepared to provide a sum of money up to \$100,000 to finance the proposed Pico Blvd. operations. At a later part of the rehearing Mr. Burke appeared and stated that after having gone into the matter further with the officers of the company and his associates he had found that there was nothing in the financial condition of the company that would justify his assuming the responsibility which he had tentatively offered at the previous hearing.

It is at this point primarily that the application of Bay Cities Transit Company fails to meet the requirements of public convenience and necessity, and it is at this point that the petitioner, City of Santa Monica, whose seven witnesses at the rehearing and whose counsel in argument, supported the application of Bay Cities Transit Company, fails to establish its case. It is not deemed a practicable or sound principle to finance original cost of equipment out of earnings and at the same time provide adequate depreciation and maintenance, and such sums as will be required for necessary additions and betterments during the progress of operations.

The primary interest of the citizens of Santa Monica and the duty of the Commission lie in the safeguarding of adequate provision for the existing operations of transportation companies now operating in that community. Anything that would tend to jeopardize the existing service, or that would tend to prevent such transportation companies from adequately meeting the full growing demands of such service would not meet the requirements of public convenience and necessity.

Witnesses from Santa Monica testified to their satisfaction with the existing service of Bay Cities Transit Company, yet others testified that that company's equipment might be greatly improved. The testimony of the manager of this applicant company shows that this company now operates in all 34 busses in Santa Monica, and that already these busses show an accrued depreciation of \$28,817 on an original cost of \$92,677. This figure was based on an estimated depreciation of 25 per cent a year. That assumes that the remaining \$63,860 of the original cost value of \$92,677 would be entirely wiped out in three years time. Even though it should be admitted that these busses may continue to be useful in

service for some years beyond the full maturity of their estimated accrued depreciation, they must all be replaced by new busses eventually, and this process of replacement must be provided for by adequate funds if the service is not to be crippled when it is most needed. If then there should prove to be any surplus earnings from the existing operations of this company in Santa Monica and Sawtelle, they should in large measure be conserved to provide for additions and betterments to the existing service as required.

It is admitted by all applicants that the proposed Pico Boulevard operations would be conducted at a loss for some time, most of the applicants estimating losses for six months to a year. It would require three busses for the initial service on a 45 minute schedule at a cost of \$8,250 each or \$24,750 in all.

The general testimony shows that the time schedule would have to be increased with the growing traffic to a possible fifteen minute service within a year or so. That would require nine busses at a cost of approximately \$75,000. Toward this purchase Bay Cities Transit Company has nothing to offer except a bank loan of \$10,000, on a six months note, a theoretical sale of stock not authorized, and a purpose to meet capital expenditures out of surplus earnings when no surplus earnings are assured for some time to come. Manifestly on this basis alone, without respect to any other considerations, the application of Bay Cities Transit Company should be denied.

The matter of rates was gone into in detail and as thoroughly as possible in respect to a proposed operation, the revenues from which cannot on any basis be ascertained at this time.

Pacific Electric Railway Company and Bay Cities Transit Company both offer to give transfers to or from their proposed Pico Boulevard lines from or to their existing motor bus or electric railway lines in their local operations in Santa Monica, Ocean Park or

Venice. This offer on the part of Pacific Electric Railway Company was not made in its original application, but was made through the testimony of its Passenger Traffic Manager and in the brief of its Counsel. Without the provisions of this transfer the proposed rates from certain points in the City of Los Angeles over the electric line to Vineyard Station and thence over the motor stage line to Santa Monica and other Beach points would exceed the existing fares between the same terminal points over the railway company's parallel railway lines.

The Pacific Electric Railway Company offers various forms of multiple ride or commutation rates, the economic value of which to the communities interested may not appear upon the surface if a comparison be made as between the four respective applicants herein only on the basis of one-way and round-trip fares. The records of the Pacific Electric Railway Company, as testified to by its Passenger Traffic Manager, O. A. Smith, show that on this Company's parallel railway lines between Los Angeles and Santa Monica 85% of the traffic is on commutation rates, 13 $\frac{1}{2}$ % on round-trip rates, and only 1 $\frac{1}{2}$ % on one-way fares. Mr. Smith claims that this experience will be borne out in the proposed motor stage operation over Pico Boulevard. No competent opposing or alternate evidence was offered to show that the distribution of traffic over the proposed Pico Boulevard route would be different in principle from that experienced over the parallel railway lines; except that it was pointed out that the proportion of traffic on commutation rates might be even greater in the proposed Pico Boulevard operation, inasmuch as the great majority of tourist and recreational travelers going direct from Los Angeles to Santa Monica and other Beach points would undoubtedly continue to follow the railway lines particularly because the Los Angeles terminal or starting point is at Vineyard Station, some distance from the center of Los Angeles. In making a comparison of

rates offered by the four respective applicants herein we shall accordingly assume that at least 85% of the travel will be on commutation rates, 13 $\frac{1}{2}$ % on round-trip rates, and 1 $\frac{1}{2}$ % on one-way fares.

The Pacific Electric Railway Company offers six varieties of commutation rates, including 10 ride book, family book (30 rides), school book (46 rides), week-day book (54 rides), monthly book (62 rides), and 60 ride book. United Stages, Inc. offers three varieties of commutation rates, including family book (30 rides), school book (45 rides), and 60 ride book. Bay Cities Transit Company offers two forms of commutation rates, namely, family book (30 rides), and 60 ride book. D. G. Henderson offers a form of commutation rate, namely, a family book of 30 round trips.

The effect of these commutation rates when taken in conjunction with records showing that 85% of the travel is transported in that manner, is to completely change the relative standing of the respective applicants as to the average of their proposed rates taken as a whole in comparison with their proposed one-way rates which are almost never used or with their round-trip rates which are only used in the small proportion of 13 $\frac{1}{2}$ % of the total travel. In fact, although Pacific Electric Railway Company proposes somewhat higher rates than any of the other three applicants for individual one-way trips and for individual round trips, when this applicant's entire schedule of commutation rates is considered in its full volume in conjunction with their relatively higher one-way and round-trip rates, the average rate or cost per trip on the basis of travel heretofore experienced is actually lower both as to through travel

between Los Angeles and Santa Monica and as to travel from most all of the intermediate points to the termini than the average rate or cost per trip of any of the other three applicants.

To make this comparison we have taken an average of 100 trips from Vineyard Station in Los Angeles to the various fare-break intermediate points indicated on the tariff schedule of the Pacific Electric Railway Company, and to the terminus at Santa Monica; and we have assumed that 85 of these trips would be on a rate equal to the average commutation rate cost per trip from terminus to terminus or from the respective intermediate points to one of the termini, in accordance with the various schedules of commutation rates offered by the four respective applicants. We have further assumed that $13\frac{1}{2}$ trips would be taken between the same points at a per trip cost of one-half of the round trip rate, and further that $1\frac{1}{2}$ trips would be taken between the same points on a one-way fare basis. Moreover to arrive at a per trip cost on commutation rates we have taken an average of the commutation rates by dividing the total price of all commutation books offered by the respective applicants by the total number of trips available through those commutation books.

By this method of computation the weighted average effect of the various proposed rates as a whole offered by the four respective applicants is indicated in the following comparative table showing the average cost per trip in cents from Vineyard Station in Los Angeles to each of the intermediate points given as fare-break points in the schedule of the Pacific Electric Railway Company and to the terminus at Santa Monica.

The Pacific Electric Railway Company in its original proposed tariff schedule provided for certain commutation rates between Vineyard Station and Preuss Road, which were eliminated in

this applicant's amended proposed tariff as given in its amended Exhibit "B". The Commission will restore those commutation rates Vineyard to Preuss Road in its order herein, and will accordingly include them in the computation of comparative weighted average per trip cost as follows: Family ticket \$1.95; School ticket \$2.99; Week day ticket \$3.51; Monthly ticket \$3.90, and 60-ride ticket \$3.90.

<u>WEIGETED AVERAGE COST PER TRIP</u>				
<u>VINEYARD</u>	<u>Pacific Electric</u>	<u>Bay Cities</u>	<u>Henderson</u>	<u>United Stages</u>
To: Cochran Ave.	6 ¢	5 ¢	5 ¢	6.19 ¢
Fairfax "	6	5	5	7.26
Preuss Road	6.98	7.64	5	8.05
Beverly Drive	8.92	10.41	13.72	9.80
Ellcrest &) Rancho Clubs)	9.97	10.41	13.72	9.80
Parnell Ave.	11.40	13.23	13.72	13.86
104th Street	13.91	15.12	13.72	13.86
122nd Street	14.70	15.12	18.30	16.43
Santa Monica) Terminus)	15.73	17.24	20.41	17.14
Other Points) in Santa Monica) Ocean Park &) Venice)	15.73	17.24	25.41	22.14

The above table clearly shows that on an assumed basis of 85% travel on commutation rates, 13½% on round trip rates, and 1½% on one-way fares the rates offered by the Pacific Electric Railway Company compare favorably and in most cases advantageously with those offered by the other applicants. It is claimed by the Pacific Electric Railway Company that the spread of rates as proposed by it involving

lower commutation rates and relatively higher one-way and round-trip rates works to the advantage of the residents of the districts bordering the route of travel because experience has shown that those local residents take full advantage of the low commutation rates offered.

From the above analysis of proposed rates and from the preceding review of the financial responsibility of the respective applicants, without any other consideration that may be involved, it is clear that public convenience and necessity will be better served by the granting of a certificate by the Commission to the Pacific Electric Railway Company rather than to any of the other applicants.

In addition to these factors of the situation, the Commission is impressed with the importance of the testimony of F. A. Lorentz, Chief Engineer of the Board of Public Utilities of Los Angeles, with respect to the desirability of coordinating the proposed transportation over Pico Boulevard, one of the city's main thoroughfares covering 75 per cent. of the proposed route, with one or other of the existing transportation systems of Los Angeles. Undoubtedly the intensive development of population in the district bordering on both sides of Pico Boulevard will from time to time require the establishment or extension of other lateral lines along the route which in turn should tie in with the Pico Boulevard or other parallel transportation lines.

The petitioners, the City of Santa Monica and the

Greater Pico Street Association, protested against the provision in the Commission's Order in Decision No. 13232, which refers to a possible future electric railway service over and along or near Pico Boulevard. That provision is as follows:

"(1) Applicant Pacific Electric Railway Company shall file, within a period not to exceed thirty (30) days from and after the date hereof, its written acceptance of the certificate herein granted, which written acceptance shall be accompanied by a resolution of the Board of Directors of said Pacific Electric Railway Company, duly certified by the Secretary thereof, in form approved by this Commission, declaring that said Pacific Electric Railway Company does declare its intention to serve the section of territory here in question with electric rail transportation service as a part of its electric rail transportation system as a common carrier within the general region in which this territory is located, if and when public convenience and necessity will be conserved by the undertaking of such service, and agreeing for said Company to seek the necessary franchises therefor and thereafter to construct and operate an electric rail service over and along or near Pico Boulevard from Los Angeles to some suitable terminus in Santa Monica, at such time as this Commission, in the exercise of its regulatory jurisdiction over said Company, shall find, after public hearing and investigation, that traffic conditions and population have so developed along this route that public convenience and necessity require the establishment of electric railway service therethrough in lieu of or in addition to the automobile bus service herein question; and shall also find that the returns from traffic which might then reasonably be expected would reasonably meet the operating costs and a return upon the necessary investment."

The petitioners allege that the Railroad Commission exceeded its jurisdiction in injecting into the hearing of the above mentioned applications the question of the ability or willingness of one or more or any of the applicants to maintain a rail line over the route mentioned at a future date, and that there was not before the Commission in that hearing any application, paper or motion of the Commission raising this question.

The facts in this matter are as follows:

1. On December 3, 1923, at a hearing of Application No. 9470 in which Pacific Electric Railway Company was seeking the transfer to it of certain operative rights in motor bus or stage operation from the Pacific Electric Land Company, counsel for both applicants stated that it was the purpose of Pacific Electric Railway Company

to go into motor bus operation on a broad scale and that such motor bus operation would be an integral part of that company's existing transportation system as a whole. In the discussion in that hearing concerning what was involved in the integral relation of the proposed motor bus operation to the company's existing electric railway transportation system, various questions were raised, including the question of the substitution of electric railway service for motor bus service, if and when public convenience and necessity should so require.

2. The matter thereafter came up on the following day in the hearing when Counsel Libby, representing applicant United Stages, stated that he was present at the hearing of Application No. 9470, and requested that the record of that proceeding be admitted into the record of proceeding herein. Thereupon and thereafter from time to time in this proceeding, the question of the possible substitution at some future time of electric railway service for the proposed motor bus service on Pico Boulevard was discussed by counsel for Pacific Electric Railway Company, by counsel for the other applicants and by the Commissioner presiding. (Transcript, page 121 et seq.)

The matter was thereupon discussed from time to time throughout the hearing. In due course Mr. O. A. Smith, on behalf of Pacific Electric Railway Company and on the authority of the Directors of that company, offered a stipulation to provide such an electric railway service on a proper showing of public convenience and necessity if and when it should be so required (page 709 et seq. Transcript). This brought the matter formally before the Commission in said hearing.

Considerable time was devoted at the rehearing to arguments of counsel and to the testimony and cross examination of F. A. Lorentz, Chief Engineer of the Board of Public Utilities of Los Angeles, and that testimony at the rehearing greatly strengthened the importance of the provision as made in the Commission's Order in Decision No. 13232, although it also went to show that the future railway service might preferably be established on a right of way or on a parallel street near to Pico Boulevard rather than directly upon this highway. The Order of the Commission in Decision No. 13232 clearly provides for such a choice of location, "over and along or near to Pico Boulevard." It is manifestly a great advantage to the communities bordering Pico Boulevard to be able to definitely rely upon the assurance that if and when conditions should so develop as to require it, especially in the event of rapid transit being developed, upon a proper showing the Railroad Commission can order such an addition or substitution of rail service as is provided in the Order in Decision No. 13232.

Moreover, nothing in said Order interferes with the possibility of the existing line of Los Angeles Railway Corporation on Pico Street being extended at some future time over Pico Boulevard if public convenience and necessity should so require. In this respect one of the objections of petitioner, Greater Pico Street Association, is reasonably met.

The petitioner City of Santa Monica, further objects to the Order of the Commission in Decision No. 13232, alleging that the Railroad Commission exceeded its jurisdiction in granting a certificate of public convenience and necessity authorizing an operation over the streets of the City of Santa Monica without imposing as a condition for the granting of said certificate, the obtaining of a permit or franchise from the City of Santa Monica for the use of said streets within the City of Santa Monica.

The Legislature of the State of California exercising its plenary power provided for in Section 22 of Article 12 of the Constitution of California, enacted the Auto Stage and Truck Transportation Act, Chapter 213, Statutes of 1917, as amended by Chapter 280, Statutes 1919, thereby vesting in the Railroad Commission exclusive power to control, regulate and grant certificates of public convenience and necessity for auto stage operations by transportation companies over any public highway in this State between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city and county.

Accordingly the Commission can see no force in this objection by the City of Santa Monica.

Certain amendments to the tariff schedule of rates having been filed at the rehearing, and the offer having been made for the issuance of transfers to or from the proposed Pico Boulevard motor bus line from or to any of the local lines operating in Santa Monica, Ocean Park and Venice, by the Pacific Electric Railway Company, the Order herein will provide for such amendments to the schedule of rates and to the rules and regulations filed under the original Order in Decision No. 13232. In all other respects the Order as provided in said Decision No. 13232 should be sustained.

I submit the following Order.

O R D E R

The City of Santa Monica and Greater Pico Street Association, Inc., having filed petitions for rehearing in the above entitled matters, a rehearing having been granted and a public hearing having been held thereon before Commissioner Shore, briefs having been filed, the matters having been duly submitted and the Commission being now fully informed in the matters, both as to the facts and the law, and no new evidence having been introduced which would justify the Commission in modifying or changing its Decision No. 13232 heretofore rendered on March 1, 1924, except as hereinafter provided with respect to certain amended rates and rules and regulations by applicant, Pacific Electric Railway Company,

IT IS HEREBY ORDERED that the Railroad Commission's Decision No. 13232 dated March 1, 1924, be, and the same is hereby modified as follows:

Applicant, Pacific Electric Railway Company shall file, within a period not to exceed twenty (20) days from the date hereof, in duplicate, tariff of rates identical with the tariff of rates submitted at the rehearing herein and marked Amended Exhibit "B", with the addition of commutation rates between Vineyard Station and Preuss Road as provided in the above Opinion, together with such necessary and proper rules and regulations as will place such fares and the transfer privileges between the proposed motor bus line operating over Pico Boulevard and the existing street railway lines within Santa Monica, Ocean Park and Venice, in full force and effect,

In all other respects this Commission's Decision No. 13232 dated March 1, 1924 is hereby affirmed.

Applicant, Pacific Electric Railway Company, shall file within a period not to exceed ten (10) days from and after the date

hereof, its written acceptance of the certificate heretofore granted in Decision No. 13252, and as herein modified.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of July, 1924.

A. Seaver

H. B. Bunnell

Isaac Martin

Egerton Shore

T. Whittier
Commissioners.