

Decision No. 20602.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 T. C. Gillespie, owner of Pasadena-  
 Ocean Park Stage Line, for a certifi-  
 cate of public convenience and neces-  
 sity authorizing the transportation  
 of passengers locally between Holly-  
 wood and Ocean Park and intermediate  
 points, as an extension of the exist-  
 ing operative rights between Pasadena  
 and Ocean Park now held by applicant.

Application No. 12,600.

Richard T. Eddy, for the Applicant.

Carl Bush and E. F. Bogardus, for  
 Hollywood Chamber of Commerce,  
 interested party.

Harry Barratt, for West Hollywood  
 Chamber of Commerce, inter-  
 ested party.

Davenport R. Phelps, for Third District  
 Chamber of Commerce, interested  
 party.

W. H. Powell, for East Hollywood Improve-  
 ment Association, interested party.

Mrs. Nellie Van Slingerland, for Better-  
 ment League and Hollywood-Santa  
 Monica-La Brea Chamber of Commerce,  
 interested party.

Leonard E. Blackmer, for Wilshire Boule-  
 vard Development Association of  
 Santa Monica, interested party.

J. B. Davis, for Santa Monica Realtors  
 and Santa Monica Chamber of  
 Commerce, interested party.

Henry T. Lechman, for West Hollywood  
 Lions Club, interested party.

B. F. Shrumpton, for West Hollywood  
 Realty Board, interested party.

Arthur H. Derling, for Hollywood-Normandie  
Business Men's Club, interested party.

Jesse E. Jacobson, for Beverly Hills Chamber  
of Commerce, interested party.

Chester L. Coffin and C. W. McInerney, for  
City of Santa Monica, interested party.

Frank Karr, R. E. Wedekind, O. A. Smith  
and E. O. Marler, for Pacific Electric  
Railway Company, Protestant.

BY THE COMMISSION:

#### O P I N I O N

T. C. Gillespie, operating under the fictitious name of Pasadena-Ocean Park Stage Line, by his amended application, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage service as a common carrier of passengers, for compensation, between Hollywood and Ocean Park and intermediate points (except locally between Sawtelle and Ocean Park and intermediate points) as an extension of applicant's present operative rights, and for rerouting of applicant's line from the intersection of Santa Monica and Wilshire Boulevards, in Beverly Hills, to Ocean Avenue, Santa Monica, so that stages will hereafter operate on Wilshire Boulevard instead of Santa Monica Boulevard.

Public hearings on this application were conducted by Examiner Handford at Hollywood, Santa Monica, West Hollywood and Los Angeles, the matter having been submitted following the filing of briefs on May 16, 1927. Submission was set aside on September 24, 1928, and the matter reopened for the purpose of receiving additional testimony covering any change in conditions

since May 16, 1927. Further hearings were held at Los Angeles. The matter again has been taken under submission and is now ready for decision.

The line involved herein was first before the Commission in an application filed by Harry A. Wilson. By Decision No. 6,962, dated December 16, 1919, in Application No. 4,777, the applicant was granted a certificate to operate an auto stage service for the transportation of passengers between Pasadena, Eagle Rock, Glendale and Hollywood, Ocean Park and intermediate points. The certificate contained the restriction that the declaration of public convenience and necessity therein made did not convey authority to applicant to carry local passengers between Hollywood and Ocean Park, and intermediate points, because such service directly paralleled and duplicated that of the Pacific Electric Railway Company. By later decisions, the authority granted by Decision No. 6962 has been transferred to T. C. Gillespie. Since the filing of the instant application, authority has been granted for the transfer of this right to Pasadena-Ocean Park Stage Line, Inc.

The applicant rests its contention that public convenience and necessity is shown for this service on the following grounds: that the present service of the Pacific Electric is inadequate and that the public is entitled to a choice of service.

The protestant, Pacific Electric Railway, contends that it is rendering a necessary and adequate service and that its service is valuable to the community and should not be weakened, broken down or destroyed so long as there is reasonable public demand for that service.

Applicant, in support of its application, introduced considerable testimony, through its employees, employees of

other stage lines, representatives of cities and Chambers of Commerce and a large number of individuals not representing any organization.

Applicant's employees testified as to the material development and growth, in the last few years, of the territory along the route herein proposed to be served; the inquiries received by agents and drivers for transportation between Hollywood and Santa Monica-Ocean Park and intermediate points; and the desirability of a change of route from Santa Monica Boulevard to Wilshire Boulevard, thereby permitting operation over a less congested traffic artery and more adequately serving the intermediate territory.

Representatives of the Cities of Beverly Hills and Santa Monica and a number of Chambers of Commerce testified in behalf of applicant, as to the desire of their respective bodies for the proposed service, in addition to that rendered by Pacific Electric Railway. The testimony of these witnesses is practically unanimous in the opinion that the public is entitled to a choice of service and any additional service which can be obtained.

One hundred and ninety-five witnesses, who did not represent any organization, testified in support of the application, such witnesses residing in Hollywood, West Hollywood, East Hollywood, Beverly Hills, Santa Monica, Glendale, Los Angeles, Sherman, Venice and at the Soldiers' Home, Sawtelle. The majority of these witnesses were housewives, but practically every business and profession was represented. The testimony of these witnesses was largely cumulative. On analysis, it is found that the majority of these witnesses own automobiles or have an automobile in the family. On the other hand, many of the witnesses have seldom, and others never, ridden on the Pacific

Electric, there being less than ten of these witnesses who were daily riders on the Hollywood-Venice Line of the Pacific Electric Railway.

Traffic and operating officials of protestant testified, generally and in detail, to the effect that their present rail service was adequate.

A comparison of the fares proposed by applicant with those effective at the present time on the Hollywood-Venice Line of the Pacific Electric Company between Hollywood and Santa Monica-Ocean Park is as follows:

<u>Kind of Ticket</u>	<u>Applicant's Proposal</u>	<u>Pacific Electric - Present</u>
One way,	\$ .35	\$ .25
Round trip,	.60	.45
10-ride book,	2.13	-
30-ride book,	6.60	-
46-ride school,	6.30	6.95
60-ride book,	9.45	10.40

These fares are illustrative of the fares between the several communities on applicant's proposed route. The minimum fare, however, in all cases, on the present Pacific Electric rail line is five (5) cents, while the minimum fare proposed by applicant is ten (10) cents.

The record shows that the fares, prior to April 27, 1928, on the Pacific Electric were substantially the same as those proposed by applicant. On that date, a trial schedule of fares was authorized by the Railroad Commission, which resulted in a reduction in the one-way and round trip fares and an increase in the commutation fares. The net result of this adjustment is a decrease in the average fare paid by all passengers on this line of 8.6%. Under the Commission's order in the fare case, the trial fares will be continued, unless modified by further order of this Commission.

Applicant proposes, in general, an hourly service, augmented by half-hour service, for three hours in the early morning and three hours late in the afternoon. A portion of this schedule will be filled by the existing Pasadena-Ocean Park schedule operating through Hollywood.

The present service of the protestant, Pacific Electric Railway, via Hollywood Boulevard, is already materially greater than that proposed by applicant. A through service is provided, leaving Hollywood Junction at 4:18 A.M., 5:44 A.M., 6:32 A.M., and thence half-hourly throughout the entire day until 7:32 P.M., thence hourly service until 11:32 P.M. Similar service is rendered in the return direction from Santa Monica and Ocean Park. Additional through service is provided on Sundays and holidays by means of extra trips operated in accordance with traffic and weather conditions. In addition to the through service, schedules are operated on a half-hourly headway between Hollywood Boulevard and Beverly Hills. This service is operated midway between the through service and makes close connections at Beverly Hills with cars of protestant's Santa Monica Vineyard Line to and from Santa Monica, giving in effect, through transfer, a fifteen minute headway between Hollywood and the beaches. The following table shows a comparison of the service at present regularly operated by the railway and the service proposed by applicant:

	Pacific Electric Rwy. Present Service			Applicant's Proposed Service
	<u>Through</u>	<u>Transfer</u>	<u>Total</u>	
BETWEEN HOLLYWOOD and				
Beverly Hills	133	-	133	46
Santa Monica- Ocean Park	66	51	117	46
BETWEEN BEVERLY HILLS and				
Santa Monica- Ocean Park	191	-	191	46

Service is also rendered between Hollywood and Beverly Hills via Sunset Boulevard by means of a motor coach line operated by the Pacific Electric Railway on a fifteen-minute headway.

The record shows that the Pacific Electric Railway, in conjunction with the University of California at Los Angeles, is planning an extension of its rail facilities from Santa Monica Boulevard northerly to serve the University's new location at Westwood. The construction of these facilities will require an expenditure of in excess of Three Hundred Thousand (300,000) Dollars. The record further shows that the Los Angeles Motor Coach Company, after investigation, has concluded that an extension of its Wilshire Boulevard line to the new University site is necessary. An agreement has been reached covering such service and the same will be inaugurated before the opening of the University, provided the necessary public authority to do so is obtained.

The testimony of the Commission's Engineer, E. F. McNaughton, sets forth the results of a survey which was made of the service rendered on protestant's entire interurban system during the year 1927. Part of such study embraces the service rendered on the Hollywood-Venice Line of the Pacific Electric Railway. The report on this survey was rendered after investigation of the service by the Commission's Staff assigned to the work and after conferences with representatives of the interested communities. At the conferences held in connection with Venice-Santa Monica group of lines, the most important criticism of the Company's service was directed to the use of open section cars and wooden seats in cars on the beach lines. After investigation, this criticism was concurred in by the Commission's engineers and a recommendation was made that the open sections of these cars, including Hollywood-Venice Line, be closed and that wooden seats be replaced with a more comfortable type of seat.

The conclusion was reached by our engineer that no material change in the frequency of the service appeared to be required on the Hollywood-Venice line at the time the report was rendered, which was October 10, 1927. This witness also testified concerning the receipt of an informal complaint by our Los Angeles office, early in 1928, requesting an extension of the local service from Sherman to Beverly Hills, this line being a part of the Los Angeles city operations of protestant and not covered by the service report referred to. The Pacific Electric Railway satisfied the complaint by extending service so as to provide a fifteen-minute headway between Hollywood and Beverly Hills and by transfer to Santa Monica-Ocean Park effective June 1, 1928.

At one of the hearings on this application, protestant, Pacific Electric Railway Company, filed the following offer of service:

"The management of the Pacific Electric Railway Company, protestant in the above entitled application, believes that the service which it is now rendering between Hollywood and the West Coast Beach District is adequate to meet the public convenience and necessity. However, during the course of the presentation of the applicant's case, more than two hundred witnesses have been produced and examined, a certain percentage of them having testified that the service of this protestant is not adequate to meet such public convenience and necessity. The applicant above seeks to establish a parallel and highly competitive motor coach service to the rail service of this protestant. If the Railroad Commission finds, from the evidence in this case, that as a matter of fact the present service of the Pacific Electric Railway Company is not adequate to meet the public convenience and necessity, this Company is willing to improve such service so that it will meet such public convenience and necessity, and it hereby offers to so improve the service as your Honorable Body shall find, from the evidence in this case, is necessary to bring such service to the standard so that the public convenience and necessity will be adequately served."



The territory most vitally concerned is the Hollywood section of the City of Los Angeles which is one of the many rapidly developed sections in this great metropolitan area. Hollywood, through its Chamber of Commerce and other civic organizations, has been outstanding in its efforts to build a charming and unusual community. In addition to all of its other efforts to this end the community has for years been persistent and diligent in its efforts to have developed the existing means of travel and to bring to and through its doors all new transportation facilities that present themselves. These are most laudable ambitions existing to a greater or less extent in all communities.

The form of transportation that made possible the great development of interurban territories around Los Angeles, including Hollywood, was the Pacific Electric Interurban Service instituted years ago through great stretches of uninhabited territory. With the development of this territory eventually came the private automobile, which was the principal means of decimating the carrying loads of the Pacific Electric and raising the cost of such transportation to the individual. Following this was the development of bus transportation over the highways duplicating in small degree the electric service before regulation became effective. Much of this bus service in the Los Angeles territory that has tried to give anywhere near the frequency of service (though nowhere near the capacity) of the interurban trains has been hard pressed, even though increased rates have been granted in some instances. That is to say that where bus service has branched out beyond taking the cream of the business it got out of its depth. It, too, feels the effect of competition with the private automobile.

What will be the final outcome of the war between the rail and automotive forms of transportation no one is wise enough to say with any certainty. That they will both survive, possibly in modified forms, and finally be substantially relegated to their respective fields seems most certain. For densely populated areas where mass transportation and solidarity of operation is necessary the street or interurban type of car traveling in a defined path, with the least interference to other traffic, is still a necessity and bids fair to become more so in the future.

The problem confronting the Commission in this matter is difficult and vital. The immediate extent and value of the service involved is comparatively insignificant, viewed in the light of the whole transportation question coming before the Commission. The principles involved and the potentialities of the future indicate far reaching results. It is proposed here by the applicant to enter into direct competition with one branch of this composite electric service where heretofore this Commission has denied that right.

Has the time arrived when the automotive bus shall replace or compete with the electric rail car in this territory? We believe the community itself would rise up in rebellion if abandonment of the electric line were proposed. It is now and will continue to be a necessity for mass transportation in this community, especially as the territory becomes more congested in population, the highways become more difficult of navigation and parking accommodations become more impossible. It is still the one outstanding transportation utility in this metropolitan district carrying its millions of passengers monthly between these localities. There are many other districts than this one to be considered. We must also realize that if this one

competition is allowed others must be permitted, which course of action could easily soon destroy the proper transportation facilities of the great mass of people who must depend upon and are entitled to a reasonably adequate and convenient method of moving at reasonable cost. The record before us shows that the passenger operations of the protestant railway on the whole are conducted upon a very narrow margin of profit. If a substantial amount of business is diverted by a policy of unrestricted competition from bus lines added to the competition of private automobiles its revenues very probably would be reduced to a point where virtual abandonment might be necessary.

It is contended in this proceeding that Pacific Electric Railway has not voluntarily attempted properly and adequately to serve the public in this territory and that under the rule laid down in Pacific Gas and Electric Company v. Great Western Power Company, 1 C.R.C. 203, 211, it cannot now offer to give additional service and escape competition. If the two situations were in anywise analogous that principle might here be invoked. But the facts are very different. In the case of the Pacific Gas and Electric Company there was a clear case of lapse and failure of duty. In the instant case the Commission, the public, and the utility have been wrestling with the matter for several years. In many instances the railway in different parts of its territory has tried to work out the problems with the local authorities and civic bodies and has changed and enlarged its service, has put on bus extensions, and has duplicated its own lines in some instances with automotive equipment. In this particular community, in a proceeding started and under way before the instant application, a study was made of the mass of transportation and upon showing made by the localities additional service was put on and improvement to equipment started. The Commission

cannot find facts which in the public interest would warrant the application of the rule contended for.

The record in this matter is unique in the fact that it is perhaps as extensive and exhaustive a showing in the way of the desire of bus service over rail as has ever been presented to the Commission, while at the same time it is weak as to the actual necessity of additional service to move the public. There is no question that a substantial part of the public desires to ride on a bus and that desire comes in conflict with the necessity of a larger group of the public to be transported in any reasonable way at a minimum cost. It was expressed by one of the officials of a civic organization substantially in this wise, that they didn't care who got the permit to operate but those who liked busses wanted the opportunity to ride in them.

While testimony from those who now use their private cars that they will forego that and use the public bus, and from those that ride little on the cars that they will ride much more on the auto stage, although sincerely given, has in the past been found rather ephemeral when it comes to practical results. Yet we believe from the record before us that the Pacific Electric Railway will be as much justified here in experimenting with bus service, even though it duplicates to some extent its rail lines, as it has been in other instances. The order will make a finding on that basis.

The order will also permit the applicant to reroute his line over Wilshire Boulevard.

#### O R D E R

Public hearings having been held on the above entitled application, the matter having been duly submitted following the filing of briefs, the Commission being now fully advised and basing its order on the conclusion as set forth in the opinion

which precedes this order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that the above entitled application as amended  
is denied except as to that portion contained in the amendment  
thereto, in which the applicant asks to discontinue service be-  
tween the intersection of Wilshire and Santa Monica Boulevards  
in Beverly Hills, along Santa Monica Boulevard to its inter-  
section with Ocean Avenue, Santa Monica, such discontinuance of  
service to be coincident with the establishment of service on  
Wilshire Boulevard from its intersection with Santa Monica  
Boulevard in Beverly Hills, to its intersection with Ocean  
Avenue, Santa Monica, thence along Ocean Avenue to the present  
terminus near the intersection of Ocean Avenue and Marine Street.

IT IS HEREBY ORDERED that a certificate of public  
convenience and necessity is hereby granted to Pasadena-Ocean  
Park Stage Line, Inc., successor in interest to T. C. Gillespie,  
applicant herein, to operate its stages in accordance with the  
above declaration.

The order herein is subject to the following con-  
ditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed thirty (30) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that within thirty days of the date of this order Pacific Electric Railway Company, after conferring with the parties appearing in this proceeding, submit to this Commission a plan to adequately experiment with the situation developed in this record and at the same time evidence its intentions regarding such plan, through declaration or otherwise. The Commission hereby reserves unto itself the right and privilege to make such other and further or additional orders in the above entitled proceeding as may be meet and proper in the premises.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of December, 1928.

Leon Whisely  
A. Leary  
Wm. J. ...  
John D. ...  
Commissioners.

DISSENTING OPINION

I am in accord with the conclusion here expressed that under the record made in this proceeding the Commission cannot refuse the Hollywood-Santa Monica section some relief in the way of additional or improved transportation.

With this as a major premise, the Pacific Electric Railway Company, which here urges the present transportation facilities to be adequate, is directed to furnish this additional service in place of permitting the applicant to furnish the added service which it proved to be necessary. In this result I am unable to acquiesce. It means added congestion on already congested highways - a consideration to which the Commission should give weight in applications of this character. More important than this, however, the holding of the majority in effect sets aside the salutary principle established in Pacific Gas and Electric Company vs. Great Western Power Company, 1 C.R.C. 203, 211, tersely expressed as follows:

"Rather, do we announce the rule that only until the time of threatened competition shall the existing utility be allowed to put itself in such a position with reference to its patrons, that this Commission may find that such patrons are adequately served at reasonable rates. By announcing this principle, we hope we shall hold out to the existing utilities an incentive which will induce them voluntarily, without burdening this Commission, or other governmental authorities, to accord to the communities of this State those rates and that service to which they are in justice entitled, and to the new utilities we shall likewise hold out the incentive that on the discovery by them of territory which is not accorded reasonable service and just rates, they may have the privilege of entering therein if they are willing to accord fair treatment to such territory."

It is sought to differentiate the present holding from the rule there laid down by suggesting that prior to the instant application proceedings were under way respecting the service of the Pacific Electric. Presumably reference is had to Application No. 13460 of the Pacific Electric Railway Company, filed

on January 11, 1927, and which resulted in Decision No. 19566, dated April 7, 1928. This application, however, was not for a review of the Company's service conditions, but was an application for authority to put into effect a schedule of increased rates. Furthermore, the Pacific Electric application was not made until ten months after the filing of the instant application.

The natural sympathy for the Pacific Electric in its struggle to make its passenger business pay should not lead to the establishment of a new principle or rule which places existing utilities in a highly entrenched position and correspondingly discourages all new utility enterprises. Rather should adherence be had to the sound principle in effect since the earliest days of this Commission, even though it may be unpleasant to apply it in the instant matter.

I think the applicant should be permitted to render the new service recognized to be necessary.

  
\_\_\_\_\_  
Commissioner.