

Decision No. 20913

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MOTOR TRANSIT COMPANY for an order authorizing it to make certain extensions of its automobile stage service for the transportation of passengers, their baggage and express in connection with the operation of applicant's Downey-Dillingham Stage Lines, and for authority to merge said extended operations with the operation of applicant's Eastern and Southern Divisions.

ORIGINAL

APPLICATION NO. 14473

Kidd, Schell & Delamer, by H. W. Kidd,
for Applicant.

Gibson, Dunn & Crutcher, by Paul R. Watkins
and H. G. Weeks, for Los Angeles Rail-
way Corporation, Interested Party.

R. T. Eddy, for Holbrook, Stimson & Shuler,
Protestant.

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

Milton Bryan, Deputy City Attorney, for City
of Los Angeles, Protestant in Part.

F. F. Ball, for Board of Public Utilities &
Transportation, City of Los Angeles,
Protestant in Part.

A. G. Wray, City Attorney for City of
Whittier, for Applicant.

Carlton Casjens, City Attorney, for City of
Bell, Interested Party.

G. M. Gale, City Attorney, for City of May-
wood, Interested Party.

BY THE COMMISSION:

O P I N I O N

Motor Transit Company, applicant herein, seeks a certificate of public convenience and necessity authorizing the establishment of passenger service, including baggage and express, between Los Angeles and Downey, via Maywood, Bell and Cudahy. Applicant also proposes to reroute its service between Los Angeles and Whittier by diverting south at Boyle Avenue to Ninth Street; thence easterly over Ninth Street, Mines Avenue and Washington Boulevard to Cedar Street; thence returning north to connect with its main line between Los Angeles and Whittier on Whittier Boulevard.

Public hearings on the application were conducted by Examiner Williams at Los Angeles.

The services proposed by applicant in this application are an extension and enlargement of service now maintained by it eastwardly from Los Angeles over new routes and serving communities not heretofore served by applicant's various lines. Applicant now conducts a service between Los Angeles and Downey via Whittier Boulevard and Telegraph Road. It is proposed to connect with this service at the junction of Twelfth Street and Vernon-Downey Road in the vicinity of Downey, proceeding eastwardly along Twelfth Street and Clara Street to Atlantic Avenue in the Cudahy community; thence northerly over Atlantic Avenue to Baker Avenue through the City of Bell; thence northerly on Maywood Avenue to Slauson Avenue, eastwardly on Slauson Avenue to Downey Avenue and thence northerly on Downey Avenue to East Ninth Street; thence east on Ninth Street to Boyle Avenue;

thence north to the junction of the main line of the Los Angeles-Whittier service at Boyle Avenue and Seventh Street.

A large part of the route passes through non-competitive territory, but between Cudahy, Bell and Maywood districts and Los Angeles it offers, according to protestants, in one way or another, competition with the Pacific Electric Railway and Los Angeles Street Railway; also competition with local carriers in all three places which feed the lines of the Pacific Electric and Los Angeles Street railways and another which performs service into the Central Manufacturing District and the Union Stock Yards. The service proposed between Downey and Los Angeles is intended to meet the expressed wish of Downey and the other communities for an additional service for the transportation of passengers between these points and the heart of the City of Los Angeles, and industrial intermediates, which is accomplished by delivery of such passengers at the terminal of applicant at Fifth and Los Angeles Streets.

During the progress of the hearings twenty-two witnesses were called by applicant in support of its application, and the communities of Maywood and Bell participated officially through their city attorneys with others in the proceeding.

Originally applicant planned its route north on Atlantic Avenue to Slauson Avenue, thence through Maywood west to the junction of the Downey Road, but in its amended application, changed this route and proceeded westerly across Baker Avenue through Bell, thence north on Maywood Avenue to a point near the junction of Slauson Avenue and Downey Road. The first route made applicant's operation almost wholly through the City of Maywood, while the changed line placed it almost entirely through

the City of Bell, and applicant expressed its desire to adhere to this last routing. This brought conflict between the two cities, and after the expression of adherence by applicant to the Baker Avenue route, the City Attorney of Maywood expressed indifference to the application, although testimony was introduced showing that the Slauson Avenue route would better serve the public. The condition of both highways was brought into question, and it appears from the record that Baker Avenue possesses operating advantages over the other route. The witnesses introduced by both sides and by applicant all support, some with considerable emphasis, the necessity for the service as proposed by applicant, because of its advantage in giving a new route to the Central Manufacturing District, Union Stock Yards and business and industrial points on the east side of Los Angeles to which there is now no direct service.

In proposing its operations, applicant stipulated that it would undertake no local business in competition with the Holbrook & Shuler and Stimson bus lines now operating under authority of this Commission, including the Stimson line operating via Whittier Boulevard and Lorena Street to Fifty-Fourth Street and Atlantic Avenue. The witnesses gave many reasons why this service would meet a public need, in addition to applicant's ability to furnish a new outlet by a different route to the business district of Los Angeles, pointing out that it made a contact with Downey and Norwalk, nearby communities, and permitted an interchange of labor between these communities and the industrial district of Cudahy, Bell, Maywood and Huntington Park, also the Central Manufacturing District and the large wholesale and retail establishment of Sears, Roebuck & Company

at Ninth Street and Boyle Avenue.

A fair estimate of the testimony introduced by all protagonists of applicant indicates there is need for such service, although the volume would not be very large at the beginning.

Every carrier touching or bordering upon the area sought to be served was a protestant in the proceeding, on the ground, first, that the service was unnecessary of itself, and, second, that adequate service is now established for all classes of traffic, at reasonable rates.

The principal protestant was the Pacific Electric Railway, whose terminal at Los Angeles is within one block of the terminal of Motor Transit Company. This carrier maintains thirty-three services daily from Walker Avenue, the east line of Maywood and Bell, to the City of Los Angeles, with a maximum running time of twenty nine minutes. Except at peak hours, this service is not utilized forty per cent of its capacity. The equipment used is of large capacity and some of its schedules are through to Whittier and La Habra, Yorba Linda and Fullerton.

Other protestants are the Holbrook & Shuler local lines operating north on Atlantic Avenue from Cudahy to Bell, thence west on Baker Avenue to and connecting with Pacific Electric on Pacific Avenue and also with the lines of the Los Angeles Railway operating on Pacific Avenue as far south as Florence Avenue. This carrier also maintains a service from Cudahy west on Florence Avenue to Pacific Avenue as a feeder to the Los Angeles Railway.

Protestant Stimson Transport Company conducts a service from the intersection of Heliotrope Drive and Baker Avenue northerly to Slauson Avenue, thence west to Pacific Avenue making connection with the Pacific Electric at Randolph Street. This carrier maintains seventy-six schedules in each direction daily. Stimson Transport Company also maintains the Lorena and Fifty Fourth Streets line hereinbefore described. The Los Angeles Railway also has a service between Pacific Avenue and the Central Manufacturing District across Leonis Boulevard with its terminal on the west side of Downey Avenue.

Practically all of these protestants represent service established to conduct an east and west service, and as applicant has excluded any local business which might affect them, it could not in any sense be a competition for that business, but only for the business to points not served by either, except Los Angeles.

According to the testimony of the bus protestants, their operations are losing money, due largely to the use of the private automobile, and are being maintained with difficulty. Except for the Lorena Street service of Stimson Transport Company these lines are all feeders to the Pacific Electric and Los Angeles Railway, and as such, by the testimony of each, receive ninety per cent of a business that is destined to Los Angeles, not to exceed five per cent of the remainder being local traffic. A portion of their business is to the bus line of Pacific Electric Railway, operating from Huntington Park to Long Beach. It is clear from their presentation, that their business is ninety per cent traffic to Los Angeles, of which the greater part uses

Los Angeles Railway to destination, although a small percentage use these services to reach Pacific Electric Railway. This fact establishes the further fact that the service proposed by applicant is not likely to affect the local carriers or through carriers, except as it may divert traffic now moving through to Los Angeles, as applicant excludes local service from its offer.

The elements in this proceeding that would divert such traffic unquestionably would be ^{the} running time and fares of applicant, as compared to those now in existence, fares undoubtedly being the most important consideration. The following table shows the comparison of fares between all carriers from Fruitland Station on Maywood Avenue, which is the dividing line between the east and west portions of the Bell and Maywood districts, and which is approximately midway between Huntington Park at Pacific Avenue and the east end of both communities:

Fares to Los Angeles from Fruitland and Walker

	One Way		Round Trip	
	F	W	F	W
Via Pacific Electric, 33 services	10	15	20	25
" " " and local busses,	16	27	32	37
" Los Angeles Railway (7¢) and local busses (6¢) Service 5½ minutes average	13	13*	26	26*
" Los Angeles Railway (Leonis Blvd).	7	--	14	--
" Applicant, 8 services daily, Atlantic & Baker	20	20	34	34
Clara & Rio Hondo	30	30	51	51

COMMUTATION

Via Pacific Electric:
 Walker, 46-ride (school) \$5.10 or 11.08¢ each way
 60-ride (adult) 7.50 or 12.5 ¢ " "
 Fruitland, 60-ride 6.00 or 10¢ " "

Applicant Motor Transit:
 Atlantic & Baker, \$3.60 or 9¢ each way
 Clara & Rio Hondo, 5.40 or 18¢ " "

Holbrook & Shuler lines:
 60-ride, 40-day tickets from Zone 1, \$3.00 or 5¢ each way
 60-ride, 40-day tickets from Zone 2, 4.00 or 7¢ " "
 Plus Los Angeles Railway fare of 7¢ to Los Angeles.

* At the time of submission, the Los Angeles Railway fare was 5¢. Subsequently, by order of the Federal Court, this was increased to 7¢. By purchase of tokens, this through fare can be reduced to 12.25¢. Full transfer privileges accrue on Los Angeles Railway.

Running Time Between Points

Stops	Applicant		Pacific Electric		Bus and L.A.Ry.	
	Miles	Minutes	Miles	Minutes	Miles	Minutes
Central Mfg. Dist.	4.9	20	--	--	*	--
Maywood	5.8	23	6.73	24	7	37
Bell	7.4	25	7.20	25	7	37
Cudahy	8.1	27	--	--	8.3	45
Downey	12.9	40	--	--	--	--

* Time on Los Angeles Railway via Whittier Boulevard and Lorena Street not estimated, but not less than any time shown.

According to applicant's time table, the running time between points indicated in the mileage column are apparently inaccurate, particularly between Maywood and Bell for a distance of 1.6 miles through a congested area, it is scheduled for 1.6 minutes. Applicant should amend its time table to conform with General Order No. 83.

Applicant proposes eight schedules from Los Angeles to Downey, and seven in the opposite direction. These will be in addition to four schedules now operated via Telegraph Road. Some of these schedules make direct connection at Downey for Norwalk and Los Angeles County Farm. It was also stated that applicant proposes to arrange through service to Santa Ana. The final schedule leaving at Los Angeles will terminate at Downey, unless there are passengers for points beyond.

That portion of the application rerouting the line between Whittier and Los Angeles by diversion at Cedar Street in Montebello to Mines Avenue and Ninth Street and returning to the main line on Whittier Boulevard at Boyle Avenue was not opposed by any protestant. Support of it was given by the testimony of John Kemmerer, President and B. G. Martin, Secretary of the Whittier Chamber of Commerce, whose testimony was to the effect that applicant had been solicited by the Chamber to reroute this service because of persons living in Whittier and vicinity who were employed at the new plant of Sears, Roebuck & Company and who have no other route available or means of transportation. Also F. J. Jeckel, Traffic Manager of Sears, Roebuck & Company testified that service from points east is required by their employes and customers.

Applicant stipulated that it intended to take no passengers between the Sears, Roebuck & Company plant and the City of Los Angeles, but only to and from points east of this plant, and amended its tariff by striking out those fare points.

Consideration of the entire record herein is not convincing that the multiplication of services to Los Angeles from the Maywood, Bell and Cudahy region, with a population conservatively of about 20,000, is necessary. True, applicant uses a different route to the business district of Los Angeles but in effect it will, if established, offer a competitive channel between termini. Its advantage in this respect, both as to fares and running time (except as to a low commutation rate) is not important. The real danger is that the proposed service would probably derange and cripple the existing carriers. The feeder lines of protestants Holbrook & Shuler alone carried 825,000 passengers and yet showed loss of \$3,400 in a year. The feeder line of Stimson averages 1218 passengers on week days and half this number on Sundays. These lines deliver ninety per cent or more of their riders to the Los Angeles Railway at Huntington Park, where for a fare of 7 cents (6 $\frac{1}{2}$ ¢ by purchase of tokens) access to Los Angeles, with full transfer privileges may be had, with a service on a headway of 3 $\frac{1}{2}$ minutes in peak traffic. Pacific Electric maintains thirty three through services daily at cheap commutation rates, with liberal patronage only at peak hours. This protestant is in position to establish suburban service, similar to that maintained to Watts, but it was the testimony of Mr. E. O. Marler, Assistant Traffic Manager, that after consideration of suburban service, it was deemed not desirable.

It seems clear from the record that the patronage bestowed on all these operations is barely sufficient to sustain them, especially in view of the ever increasing use of the private

automobile. If they are to continue and by their own enterprise function better and more profitably, it must be without additional competition. Hence we cannot find, at this time, that there is real need for another transportation service in Maywood, Bell or Cudahy.

As to that portion of applicant's route north of Slauson Avenue there is no through service to Los Angeles, except that of the Los Angeles Railway terminating at Leonis Boulevard and Downey Road. In this connection, Mr. Roy D. Owen, Sales Manager of Central Manufacturing District, Incorporated, testified that the extension of the Los Angeles Railway has not given transportation relief, and that many employes still use their own automobiles because they have no adequate transportation in other directions than to the west. The Manufacturing District has seventy five industries, employing, according to a check made a week previously 1500 (many plants not working to capacity) of which fifty per cent live south or east of the district. In addition, there is a daily auction market which brings several hundred buyers and sellers, from midnight to 6:30 in the morning. (Applicant proposes a schedule at 11:15 P.M. and 6:00 A.M. from Los Angeles.) This Manufacturing District comprises four hundred acres, and the industries are concentrated near the junction of Leonis Boulevard and Downey Road. In addition, Fred J. Jeckel, Traffic Manager of Sears, Roebuck & Company, whose wholesale and retail establishment is on Ninth Street on applicant's route, testified that a great many of the 1200 employes live east and south of the plant, and that a through service is needed by employes and

customers. These facts were not disputed by protestants and justify the establishment of service to Los Angeles and to points south. The service maintained by protestant Stimson, between Whittier Boulevard and Lorena Street, via Downey Road, does not appear to be effective, as it is not a through service to Los Angeles, and has no southern connection. Mr. Stimson testified he had lost \$2400 in the operation of this service, which has an average patronage of about 115 daily. Stimson formerly conducted a service via Atlantic and Slauson Avenues and Downey Road from Cudahy to the Manufacturing District, which was abandoned due to lack of patronage.

It is our conclusion, and, based on the facts stated in the foregoing opinion, we hereby find as a fact, that public necessity and convenience require the establishment of the service as proposed by applicant in part only, and that a certificate therefor, subject to certain restrictions, should be granted.

Motor Transit Company is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

ORDER

Motor Transit Company having made application for a certificate of public convenience and necessity authorizing establishment of passenger service, including baggage and express, between Los Angeles and Downey, via Maywood, Bell and Cudahy, and rerouting its service between Los Angeles and Whittier, public hearings having been held, the matter having been duly submitted and being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public necessity and convenience require the establishment of the proposed service for passengers, their baggage and express between Los Angeles and Downey and intermediate points in part only, as hereinafter restricted, and that public necessity and convenience require the establishment of its rerouting and additional service between Los Angeles and Whittier over the following described routes:

No.1 - Beginning at Downey, thence via Crawford Street to Vernon, Downey Road or Twelfth Street, thence via Clara Street to Atlantic Avenue, thence via Atlantic Avenue to Baker Avenue (Bell), thence via Baker Avenue to Maywood Avenue, thence via Maywood Avenue to Slauson Avenue, thence via Slauson Avenue to Downey Road, thence via Downey Road to Ninth Street in the City of Los Angeles, thence via Ninth Street to Boyle Avenue, thence via Boyle Avenue to Seventh Street and thence via Seventh, Mateo, Sixth, San Pedro and Fifth Streets to terminal at Fifth and Los Angeles Streets.

No.2 - By diverting from its Los Angeles-Whittier route at Whittier Boulevard to Cedar Street, thence via Cedar Street to Washington Boulevard, thence via Washington Boulevard, Ninth Street and Mines Avenue to Boyle Avenue; thence via Boyle Avenue to Seventh Street said route being only a diversion from its main Los Angeles-Whittier route; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted; provided, however, that nothing herein shall authorize applicant to sell transportation from any point between the intersection of Downey Road and Fifty-seventh Street and Clara Street and Rio Hondo to Los Angeles, or vice versa; and provided further, that transportation shall not be sold for points between the junction of Indiana Street and Ninth Street (City limits of Los Angeles) and the City of Los Angeles; and provided further, that no local transportation shall be sold for local service between Slauson Avenue and Rio Hondo, nor between Fruitland Avenue and Ninth Street; and provided further, that no transportation may be sold for through service between Los Angeles and Long Beach or Los Angeles and Pasadena; and provided further, that all express rates and weights shall conform in all details with the rates and weights filed on Decision No.18749 on Application No. 11502, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted Motor Transit Company, subject to the following conditions:

- 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 twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with 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 vehicles 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 the certificate of public convenience and necessity herein granted be and the same hereby is consolidated and merged with the operating rights heretofore granted Motor Transit Company, covering services under the following certificates and over the following routes and from points to points:

By Decisions Nos. 13454 and 13548 on Application No. 8454, to determine and consolidate all rights of Motor Transit Company.

By Decisions Nos. 13373 and 15760 on Application No. 9917, to lease and option and buy Dillingham Lines.

By Decision No. 15834 on Application No. 10698, to merge Dillingham Lines with Motor Transit system.

By Decision No. 18689 on Application No. 11784, to operate lines along Foothill Boulevard between Los Angeles and San Bernardino, etc.

By Decision No. 16257 on Application No. 12607, to purchase City Transit Line, Pomona to San Dimas.

By Decisions Nos. 16888 and 17160 on Application No. 12693, to purchase from Verdugo Hills Transportation Company line, Los Angeles to Sunland.

By Decisions Nos. 16725, 17411, 17412 and 19948 on Application No. 12812, tri-merger with Pickwick and California Transportation Company.

By Decision No. 17120 on Application No. 13005, to purchase C. D. Hodge line, San Bernardino to Oro Grande.

- By Decision No.17546 on Application No.13223, to purchase Schoer Lines, Redlands to Yucaipa.
- By Decision No.18692 on Application No.13676, to reroute Dillingham Lines and operate, Downey to Norwalk.
- By Decision No.20542 on Application No.14293, to operate Pasadena to Long Beach via Atlantic Avenue.
- By Decision No.19739 on Application No.14591, additional rights to operate between Gilman, and Sobobo Hot Springs.
- By Decision No.19986 on Application No.14746, to purchase Cory G. Hoff Lines, Fullerton to Placentia.

IT IS HEREBY FURTHER ORDERED that the authority to consolidate and merge the right granted herein with the rights now owned by Motor Transit Company, as described in the order herein, shall be construed only as authority to publish rates and charges between all points served under authority of the certificates of public convenience and necessity already granted and to operate through automotive stages between any of said points, no authority being conveyed for the operation of any lesser service than that authorized by the certificate granted herein, or heretofore granted.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 27th
day of March, 1929.

Osborne

Leon White

M. S. Van

Commissioners.