

Decision No. 21723.

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of  
 A. B. DUNPHY, doing business under  
 the firm name of Belvedere Gardens  
 Bus Line, for a Certificate of Public  
 Convenience and Necessity to operate  
 an automobile stage line for the  
 transportation of passengers for com-  
 pensation, as a common carrier, in the  
 County of Los Angeles, between Eagle  
 Street and Kern Avenue on the one  
 hand, and Harding and Hubbard Avenue,  
 on the other hand, and all intermediate  
 points as an extension of, and an integral  
 part of the line as at present operated.

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 { Application  
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 { No. 15824.  
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Phil Jacobson - For Applicant.

H. W. Kidd and W. O. Schell - For Motor  
Transit Company, Protestant.

H. G. Weeks - For Los Angeles Railway  
Corporation, Protestant.

BY THE COMMISSION:

O P I N I O N

A. B. Dunphy, doing business in the County of  
 Los Angeles under the fictitious name of Belvedere Gardens  
 Bus Line, applies to the Railroad Commission for a certificate  
 of public convenience and necessity to operate an automobile  
 stage line for the transportation of passengers between  
 Whittier Boulevard and Brannick Street on the one hand, and  
 Harding and Hubbard Avenues on the other, serving all  
 intermediate points.

The proposed line would constitute an extension of  
 applicant's present service between Rowan Avenue and First

Street on the one hand and Whittier Boulevard and Brannick Street on the other.

A public hearing was held by Examiner Cannon at Los Angeles, the matter was submitted, and is ready for decision.

The proposed extension, while paralleling a portion of applicant's existing route, deviates from such route at the intersection of Eagle Street and Kern Avenue, running thence in a generally easterly direction. The proposed route is described as follows:

Starting at Sixth and Harding; South on Harding to Hubbard; west on Hubbard to School Street; north on School Street to Sixth; west on Sixth Street to Hoefner; north on Hoefner to Eagle Street; west on Eagle to Atlantic Boulevard; south on Atlantic to Sixth Street; west on Sixth to Frazer; north on Frazer to Eagle; west on Eagle to Kern Avenue; south on Kern to Whittier Boulevard; west on Whittier to Brannick and back over same route.

The application recites that the demand for this service emanates from persons living east of applicant's present traveled route who desire transportation to the business district of Belvedere Gardens and the terminus of Los Angeles Railway lines. It is proposed to operate one twenty-five passenger bus, under a 45 minute headway, between Sixth and Harding on the one hand, and Whittier and Brannick on the other hand, at a fare of 6 cents, such fare to be applicable over any portion of proposed route or for service from any point on proposed route to any point on the existing route.

Applicant testified that there were three public schools within the area he proposed to serve, that no school bus at present served the territory, and that he pro-

posed to charge pupils the regular six cent fare. The total length of the proposed route is 3.6 miles or an actual extension of existing route of about two miles.

Seven witnesses were called by applicant, all residing within the territory proposed to be served, and by stipulation the testimony of twelve additional witnesses was admitted.

The testimony of these witnesses went to the inadequacy, in some respects, of the existing service and the necessity for a more convenient method of reaching Belvedere Gardens which is the local business and shopping district. Under existing facilities, these witnesses testified, they could reach this district either by walking the entire distance of ten or twelve blocks, or walking to the nearest bus line, an average distance of two blocks.

The application was protested by Los Angeles Railway Corporation and Motor Transit Company.

Los Angeles Railway Corporation operates a bus line into this territory, coming in over Ford Street, turning east at Whittier Boulevard and terminating at Simmons Street. Whittier Boulevard parallels Eagle Street at a distance of three blocks and the major portion of applicant's proposed line is on Eagle Street. The railway company operates 163 trips each way daily along Whittier Boulevard, not all of these schedules stopping for local passengers, however. It would offer no objection to the proposed Dunphy service if it were confined to Eagle Street, and in fact admits the necessity of a bus line on Eagle Street.

Motor Transit Company operates local and through service along Whittier Boulevard, running over forty schedules each way daily between Montebello and Los Angeles.

This carrier especially protests the loop service at the extreme eastern end of the route proposed by applicant, which would bring it within 830 feet of Motor Transit line.

We are of the opinion that the evidence in this proceeding justifies the granting of a certificate of public convenience and necessity authorizing applicant to operate over the route prayed for provided that the operation from Kern Avenue east shall be confined to Eagle Street and that the easterly terminus of such operation shall be at Williamson Street. With the exception of the loop at Harding Street this moves the operation one block farther north from Whittier Boulevard and eliminates the objection of both Motor Transit Co. and Los Angeles Railway Corporation, protestants herein, both of whom agreed at the hearing to withdraw their protests in the event that applicant did not render service south of Eagle Street. This re-routing will still permit of adequate service to the schools and will assure satisfactory transportation to practically the same number of residents in this area who would be served by the route originally proposed.

A. B. Dunphy 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 to the number of rights which may be given.

O R D E R

A public hearing having been held in the above entitled application, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by applicant of an automobile service for the transportation of passengers over and along the following route:

Starting at Williamson and Eagle Streets and going west on Eagle Street to Kern Avenue, thence south on Kern to Whittier Boulevard, thence west on Whittier Boulevard to Brannick Street and returning over the same route.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the above service as an extension of applicant's existing operating right as authorized by Decision No. 9720 issued on Application No. 7194 be and the same is hereby granted, subject to the following conditions:

1. Applicant shall file his 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 vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of October, 1929.

Thos B. Loring

C. C. Sawyer

Ernest Scott

Leon Whitely

W. P. Ann  
Commissioners.