

Decision No. 21854

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation upon the Commission's own motion into the rates, rules, regulations, charges, classifications, contracts, practices, operations and schedules, or any of them, of W.M. F. WHITCOMB, operating a passenger stage service in the State of California.

Case No.2760.

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 compensation as a common carrier) in the County of Los Angeles, between First and Indiana on the one hand, and Garvey Avenue and Rosemead on the other hand, and all intermediate points as an extension of the line as at present operated.

Application No.15994

In the Matter of the Application of MOTOR TRANSIT COMPANY for a certificate of public convenience and necessity authorizing it to conduct an automobile stage service for the transportation of passengers, their baggage and express, (1) between Los Angeles and El Monte, California, and in part over the routes formerly served but now abandoned by Whitcomb Stages, and (2) for authority to merge said operation with applicant's existing stage lines.

Application No.16003

W. F. Whitcomb, in propria persona, Respondent in Case No.2762.

Glenn M. Ely, City Attorney, City of Monterey Park, Interested party .

Phil Jacobson, for Applicant in Application No.15994 and for Belvedere Gardens Bus Line, Protestant in Application No.16003.

H. W. Kidd, for Applicant in Application No.16003, and for Motor Transit Company, Protestant in Application No.15994.

Thos. A. Berkebile, for Monterey Park Chamber of Commerce, Interested party.

R. T. Williams, for Garvey Civic Association,
Walnut Acres, Interested Party.

T. A. Woods, for Railway Express Agency, Inc.,
Interested Party.

A. E. Hart, for Rosemead Chamber of Commerce,
Interested Party in Case No.2762 and Protestant
in Application No.16003.

Mrs. W. C. Mathews, representing Parent-Teachers
Association and several hundred citizens of
Monterey Park, Interested Party.

W. C. Gorman, for Wilmar Chamber of Commerce
and Wilmar Realty Board, Interested Party.

Mrs. Mary Parr, representing district east of
Wilmar and south of Garvey, Interested Party.

Gibson, Dunn & Crutcher, by J. S. Nery, for Los
Angeles Railway Corporation, Interested Party.

O. A. Smith, for Pacific Electric Railway Company,
Interested Party.

C. S. Ranger, for Monterey Park Chamber of Commerce,
Interested Party.

F. J. Rice, Proprietor H. & A. Auto Line, Interested
Party.

Mrs. F. W. Wagoner, representing Ramona Women's
Club of Monterey Park, Interested Party.

A. B. Haskell, representing East First Street
Business Men's Association, Interested Party.

L. A. Gretz, Secretary, Industrial Civic Association
of the East Side, Interested Party.

G. C. Lowe, representing railroad men living in
Monterey Park, Interested Party.

BY THE COMMISSION -

O P I N I O N

On September 28, 1929, the Commission, on its own motion,
issued its order instituting an investigation into the rates,
rules, regulations charges, classifications, contracts,
practices, operations and schedules, or any of them, of Wm. F.
Whitcomb, operating a passenger stage service between Wilmar
and First and Rowan Streets, Belvedere, in the County of Los
Angeles; between First and Indiana Streets in the City of Los
Angeles and El Monte and intermediate points; and between other

points in this State, to determine whether or not such rates, rules, regulations, charges, classifications, contracts, practices, operations and schedules, or any of them, were unreasonable, discriminatory or preferential in any particular or in any manner illegal or unlawful, and directed that said Wm. F. Whitcomb be served with a copy of said order and be directed to appear and show cause why any and all operative rights possessed by him should not be revoked and annulled.

In Application No.15994, as amended, A. B. Dunphy, doing business under the fictitious name of Belvedere Gardens Bus Line, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers between Brooklyn and Rowan Avenues on the one hand and Carvey Avenue and Rosemead on the other hand.

In Application No.16003, Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers, baggage and express between Los Angeles and El Monte and intermediate points, excluding local intermediate business within the City of Los Angeles, and to merge said operating right, if granted, with other rights of applicant's operative system.

Public hearings on the order to show cause and the applications were conducted by Examiner Handford at Los Angeles, the matters were consolidated for the receiving of evidence and for decision, were duly submitted and are now ready for decision.

In Application No.15994, applicant A. B. Dunphy proposes rates in accordance with a schedule marked Exhibit A, to operate on a time schedule marked Exhibit B, both as attached to and forming a part of his amended application as filed on October 26, 1929. Applicant proposes to use as equipment four buses,

two of 25 passenger and two of 29 passenger capacity, and such other equipment as may be needed by the requirements of traffic.

Applicant relies as justification for the granting of the desired certificate upon the alleged fact that there is a great need for bus service over the route proposed, said need being intensified by reason of the discontinuance of service by the Whitcomb Stage Line which formerly served the territory.

In Application No. 16003, applicant Motor Transit Company, proposes rates in accordance with schedules filed as exhibits attached to and forming a part of the application, to operate on a 30 minute headway between Los Angeles and Rosemead between the hours of 5:45 a.m. and 7:45 p.m. and hourly thereafter until 11:45 p.m. Extra schedules are provided out of Los Angeles to serve the peak travel of the evening hours. Six through trips from Los Angeles to El Monte are proposed and five from El Monte to Los Angeles. Applicant proposes to use as equipment as many units of its standard type of buses as may be necessary to care for the demands of traffic, ample equipment being available for such use.

Applicant relies as justification for the granting of the desired certificate on the following alleged facts:

1- That the service herein proposed will enable passengers heretofore served by the Whitcomb Stage Line, now discontinued, to receive identical service, or to go directly to Los Angeles without the necessity for changing to the cars of the Los Angeles Railway Corporation.

2- That the co-ordination of service herein proposed with the presently authorized lines of applicant will enable operation over an alternate route between Los Angeles and El Monte, thereby relieving congestion by eliminating some traffic on Valley Boulevard and furnishing additional available schedules via the proposed alternate route.

3- By making available for its patrons on the proposed route complete transportation service to and from all points now served by applicant's transportation system.

4- That applicant's patrons on the proposed route are entitled to and will be adequately served by the establishment of express and baggage service in accordance with the general rules and regulations applicable to all other points now served by applicant's transportation system.

W. F. Whitcomb, proprietor of Whitcomb Stages, respondent in the order to show cause, testified that on October 5, 1929, he ceased operation of the stage line between First and Indiana Streets and El Monte, as heretofore conducted under the certificated authority of this Commission.

Respondent, who has been conducting stage operation for a period of fourteen years, states that his financial troubles have been occasioned by the operation of an extension of his line to El Monte, that the operating conditions and equipment requirements have not been possible of accomplishment and that he was not in a position to give further service, his equipment needing rehabilitation and requiring additional investment which he was unable to furnish.

A. S. Meininger, employed by the Commission as inspector for the Auto Stage Department, testified regarding complaints which had been investigated, and gave the results of checks of operation which he had made, showing irregularity of operation, particularly as to delayed schedules. By stipulation, the record of informal complaints and correspondence between respondent and the Commission was to be considered in evidence in these proceedings.

From the record herein we conclude that the operations of W.F. Whitcomb, operating under the fictitious name of Whitcomb Stages, having been conducted in violation of the Commission's operating rules and safety regulations and having been on October 5th, 1929, entirely discontinued without the consent of this Commission, should be ordered discontinued and all operative rights heretofore granted by this Commission to said

W. F. Whitcomb should be canceled, revoked and annulled.

A. B. Dunphy, applicant in Application No. 15994, testified that he had been engaged in the stage business since 1921, and was now operating the Belvedere Gardens Bus Line under the jurisdiction of the Commission. This witness testified regarding the demand for stage service originating upon the suspension of operation of the Whitcomb Stages and his proposal to resume the service heretofore available in the territory between Brooklyn and Rowan Avenues on the one hand and Garvey Avenue and Rosemead on the other hand. Witness does not desire to extend service to El Monte, believing that the territory east of Rosemead to and including El Monte is not sufficiently populated to justify a volume of traffic which would properly compensate an operator. Witness testified regarding his financial ability to satisfactorily conduct the proposed operation and as to his ability to secure further financial assistance, should such be necessary, one source available being his father who signified his willingness to advance \$15,000 to aid in the financing and operation of the proposed extension.

F. D. Howell, vice president and general manager of applicant Motor Transit Company, testified regarding the investigation made as to the feasibility of the proposed service and as to the advantages to be offered the public in the district proposed to be served by reason of the consolidation of the proposed service with the operative system of Motor Transit Company. His investigation has disclosed many residents along the proposed route who are desirous of through direct stage service between Los Angeles and the territory between First and Rowan Streets and El Monte without the necessity of change to the service of Los Angeles Railway. Also that the residents of the territory request a co-ordination of the proposed service with that of applicant's presently operated

stage system in Southern California, together with the express and baggage transportation herein proposed. This witness is of the opinion that the operation of the proposed extension of service, while not promising immediate results as to profitable operation, can be successfully undertaken by his company by reason of the opportunity to reroute some through schedules between Los Angeles and El Monte which may be destined to or from points on the Eastern Division of this applicant, thereby relieving some congestion now existing on the Valley Boulevard and also enabling the equipment to be available for local work on the proposed new route herein proposed.

Samuel Jones, Mayor of Monterey Park, testified as to the action of the City Council of the City of Monterey Park following the abandonment of the Whitcomb Stages Service. It appears that the City Council authorized and have since operated a municipal bus line between First and Rowan Streets and an easterly terminus at San Gabriel Boulevard, using as equipment stages rented from the Motor Transit Company, and operating over the route formerly served by the Whitcomb Stages. This operation, according to the testimony of this and other witnesses, was a temporary expedient designed to care for the emergency created by the abandonment of service, and although the same fares have been assessed as were formerly collected by Whitcomb Stages, the operation has resulted in a daily deficit of from \$10.00 to \$12.00. The City of Monterey Park is anxious for an early determination of the pending applications in order that it may be relieved of the financial loss of stage operation, and that the needed service may be rendered by an authorized operator satisfactory to the Railroad Commission.

The testimony of 19 witnesses representing the public was received and by stipulation it was agreed that 29 additional witnesses, who were present, would if called give similar

testimony as that presented by the witnesses who were heard herein. The testimony of all these witnesses is to the effect that stage service is necessary and should be provided. Some of the witnesses are interested only in access to and from Los Angeles and have no interest in the desires or needs of others living east of the particular witnesses' residences. Some also are indifferent regarding the through service proposed by stage to Los Angeles, their needs being fully served by a restoration of such portion of the Whitcomb Stages service which would permit them to have transportation to the end of the Los Angeles Railway car lines, thence using the facilities of such company to and from their business in the city of Los Angeles.

The City of Monterey Park, by resolution of its City Council dated October 28, 1929, urges the Commission to promptly grant a certificate of public convenience and necessity to relieve the present inadequate transportation facilities to and from said city.

The Board of Directors of the Monterey Park Chamber of Commerce, by resolution dated October 16, 1929, and the Ramona Woman's Club, by resolution dated October 25, 1929, endorse the application as herein made by Motor Transit Company. The Rosemead Chamber of Commerce objects to the granting of the application of Motor Transit Company insofar as said application proposes a rerouting of certain through schedules now operated between Los Angeles and El Monte, via the Valley Boulevard, but enters no objection as to any other portion of the application.

The only controversy presented in these proceedings is occasioned by the scope of the respective applications and the schedule of rates as proposed by the respective applicants.

Applicant Dunphy proposes service from First and Rowan Streets to and including the community of Rosemead on Garvey Avenue, following the route heretofore operated by Whitcomb Stages.

Applicant, Motor Transit Company, proposes service originating at its Union Stage Depot at Fifth and Los Angeles Streets, Los Angeles, to Brooklyn Avenue and Rowan Streets, thence over the route formerly operated by Whitcomb Stages to El Monte.

One applicant thus proposes to perform all the service heretofore operated by the Whitcomb Stages with an extension thereof to the business district of Los Angeles, the other maintains that there is no need for the extension of service to the business district of Los Angeles nor for any service east of Rosemead to and including El Monte, regarding the latter as unprofitable territory not producing traffic sufficient in volume to justify operation.

The fares proposed, regarding which a controversy has arisen, are as follows:

A. B. DUNPHY

Brooklyn Ave. and Rowan St. to Rosemead and Garvey Avenue	.....	10¢ one way
Brooklyn Ave. and Rowan St. to Garvey Avenue, Monterey Park	.....	10¢ one way 15¢ round trip
Local Fares between Monterey Park and Wilmar	.....	5¢ one way
Children under 10 years of age	.....	5¢ one way
Children in arms	.....	Free.

MOTOR TRANSIT COMPANY

Between Brooklyn Ave. and Rowan St. and 5th and Los Angeles Sts., L.A.		10¢ one way 20¢ round trip
Between <u>Los Angeles (5th & Los Angeles Sts)</u> and Monterey Park (Garfield and Garvey Avenues) Garvey Airport		15¢ one way 30¢ round trip 20¢ one way 40¢ round trip
El Monte		25¢ one way 50¢ round trip

Between Los Angeles (5th & Los Angeles Sts) (cont'd)

El Monte (cont'd)	\$2.25 10 ride
	5.25 30 ride

Between Brooklyn Ave. and Rowan St.

and Monterey Park (Garfield and Garvey Aves)	10¢ one way 15¢ round trip
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Calles Airport	15¢ one way 25¢ round trip
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El Monte	20¢ one way 35¢ round trip
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Between Monterey Park (Garfield and Garvey Aves)

and Calles Airport	10¢ one way 15¢ round trip
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El Monte	15¢ one way 25¢ round trip
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Between Calles Airport

and El Monte	10¢ one way 15¢ round trip
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10 ride individual books, 75% of one way fare.

30 ride family books, 60% of one way fares, except as shown.

While the rates proposed by applicant Dunphy would enable patrons to reach the service of the Los Angeles Railway for a ten cent fare, and would also provide a five cent fare for local service between Monterey Park and Wilmer, this applicant does not propose to duplicate the service formerly rendered by the Whitcomb Stages and a considerable number of patrons formerly receiving service would be entirely without reasonable or adequate public transportation in the event of the granting of the Dunphy application. Upon analysis the variation in fares, for the regular patron, is not excessive. Patrons desiring service between 5th and Los Angeles Streets, Los Angeles, and Monterey Park (Garfield and Garvey Avenues) can obtain same at the rate of 11½¢ per ride by using the 10 ride commutation ticket or 9 cents per ride by using the 30-ride family commutation ticket. If passengers desire to use the combined service of

Motor Transit Company and Los Angeles Railway Corporation with transfer to any point within the first zone of the Los Angeles Railway, the single fare arrived at by the use of commutation books would be on the following basis, assuming passengers to originate at or be destined to Garfield and Garvey Avenues, Monterey Park --

	<u>Ten Ride</u>	<u>30 Ride</u>
Motor Transit Co.	11$\frac{1}{2}$	9¢
Los Angeles Railway	7 ¢	7¢
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	18 $\frac{1}{2}$ ¢	16¢
	Per ride	Per ride

A further reduction may be obtained by the purchase of tokens on the Los Angeles Railway, such tokens being procurable at the rate of 4 for 25¢, and the use of such tokens with the above mentioned forms of commutation would reduce the rates to 17 $\frac{1}{2}$ cents and 15 $\frac{1}{2}$ cents, respectively. The local fares of Motor Transit Company, for which a minimum one-way fare of ten cents has been provided, would be reduced by the purchase of commutation books to 7 $\frac{1}{2}$ cents per ride for the ten ride book, and 6 cents per ride for the thirty ride book.

The record shows 156 residences in El Monte to be served by the proposal of the Motor Transit Company. These residences have heretofore been served by the Whitcomb Stages but now have no transportation available to Monterey Park or via such community into Los Angeles.

After full and careful consideration of all the evidence and exhibits relating to the applications herein it appears that the proposal of the Motor Transit Company offers the best and most reliable service for the public. This applicant not only proposes to duplicate the service formerly rendered by the Whitcomb Stages, but offers direct stage service to the

business district of Los Angeles, which appears desirable and in accordance with the wishes of the residents of the communities served. Service to El Monte will also be resumed and the consolidation of the proposed route with the operative system of this applicant will also be in the public interest.

The testimony indicates that for a considerable period it is doubtful if the service can be maintained at a profit and the attitude of the respective applicants is of interest in this regard. Applicant Dunphy, with limited resources, is willing to try out the operation, believing it may be operated without loss, but offering no definite assurance as to the length of time he would continue the operation in the event of continuing deficits before petitioning the Commission for an increased rate base or for authority to curtail or abandon service.

Applicant Motor Transit Company, through its Vice President and General Manager, after investigation, recognizes that for a considerable time there is a possibility of the operation not meeting expenses and making a profitable return on the investment, but are willing to continue the service as a part of the consolidated transportation system.

It is in the interest of the residents of Monterey Park, El Monte and other communities along the route that dependable regular transportation be provided, there being no other public carrier serving the major portion of the route here considered. This can be furnished with the additional facility of direct stage service to the business district of Los Angeles giving patrons a choice of service into Los Angeles by the granting of the application of Motor Transit Company, the record herein showing a necessity for the service, its consolidation with the general stage system of Motor Transit Company, and financial and operating ability justifying continued and reliable service to the public by this applicant.

Los Angeles Railway Corporation, although appearing in these proceedings, has no objection to the proposed extension of service into the business district of Los Angeles.

Motor Transit Company, a corporation, 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

Public hearings having been held on the above entitled matters, which were consolidated for the receiving of evidence and for decision, the matters having been duly submitted and the Commission being now fully advised,

IT IS HEREBY ORDERED that the certificates of public convenience and necessity for the operation of passenger stage service as heretofore issued by this Commission to W.F. Whitcomb, operating under the fictitious name of Whitcomb Stages, and covering operation between Wilmar and First and Rowan Streets, Belvedere, in the County of Los Angeles; and between First and Indiana Streets in the City of Los Angeles and El Monte and intermediate points, said certificates being granted by the following decisions of this Commission -

Decision No.4992 on Application No.3293, decided December 28, 1917.

Decision No.11550 on Application No.8565, decided January 24, 1923.

Decision No.20304 on Application No.14730, decided October 3, 1928,

be and the same hereby are canceled, revoked and annulled.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity do not require
the operation by A. B. Dunphy, applicant in Application
No.15994, of an automobile stage line as a common carrier of
passengers in the County of Los Angeles, between Brooklyn and
Rowan Avenue on the one hand, and Garvey Avenue and Rosemead
on the other hand, and all intermediate points, as an extension
of the line at present operated by said applicant, and

IT IS HEREBY ORDERED that Application No.15994 be and the
same hereby is denied.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the
operation by Motor Transit Company, a corporation, of an
automobile stage service for the transportation of passengers,
baggage and express between Los Angeles and El Monte, California,
and intermediate points, over the following described route:

Commencing at the Union Stage Terminal at Fifth
and Los Angeles Streets, Los Angeles; thence via
Los Angeles Street to its intersection with
Alameda Street; thence north on Alameda Street
to Macy Street; thence east on Macy Street
crossing Mission Road; thence via Macy Street,
Brooklyn Avenue, Mednick, Coyote Pass and Garvey
Road to Granada, thence via Granada and El Monte
Road to applicant's existing depot in the city
of El Monte.

Returning via the reverse of the foregoing
route,

and for consolidation of the rights herein granted with the
rights of applicant for the operation of its Eastern Division
as such rights are specifically set forth in this Commission's
Decision No.13454 on Application No.8454, as decided April 22,
1924, and

IT IS HEREBY ORDERED that a certificate of public conven-
ience and necessity be and the same hereby is granted to
Motor Transit Company, a corporation, for the operation of an
automobile stage line as a common carrier of passengers,

baggage and express between Los Angeles and El Monte and intermediate points via the route as hereinabove specifically set forth in the foregoing declaration, and for the consolidation of the rights herein granted with the rights of applicant for the operation of its Eastern Division as such rights are described in this Commission's Decision No. 13454 on Application No. 8454, decided April 22, 1924, and subject to the following conditions:

- 1- The authority hereby conveyed does not authorize the carriage of passengers, baggage and express locally in the City of Los Angeles between the stage depot of the applicant at Fifth and Los Angeles Streets and the easterly city limits of said city.
- 2- The express and baggage privileges herein granted are to be conducted in conjunction with the passenger stage service of applicant, and include the transportation of baggage, not exceeding in weight one hundred fifty (150) pounds per piece, between all stations on applicant's stage system when the one-way rate of fare is the sum of \$3.00, or more, and the express service herein granted covers the transportation of parcels and packages not exceeding a weight of one hundred (100) pounds per parcel or package, said express to be carried only on the passenger cars or stages of the applicant.
- 3- Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
- 4- 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 thirty (30) days from the date hereof.
- 5- 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.

6- 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 the tariff of rates and time schedules heretofore filed with the Railroad Commission by Wm. F. Whitcomb be and the same are hereby canceled.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this 2nd day of

December, 1929.

Thos D. Lott

C. L. Seaver

Edmunds

M. J. Am...
COMMISSIONERS.