

Decision No. 22673

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

**ORIGINAL**

In the Matter of the Application of Chas. B. Holbrook and Vernon H. Shuler, for certificate of public convenience and necessity to operate passenger stage service between intersection of Florence Ave. and Seville Street, Huntington Park, and intersection of Otis Street and Elizabeth Street, County of Los Angeles.

Application No. 8580  
(Supplemental)

In the Matter of the Application of H&S Transportation Company to operate automobile stage line between (1) Elizabeth Street and Atlantic Boulevard, and (2) Randolph and Pacific as an extension of present operative right terminating at Florence and Seville Streets, Huntington Park.

Application No. 16121

In the Matter of the Application of Los Angeles Railway Corporation for a certificate of public convenience and necessity to operate motor coaches for the carriage of passengers in the City of Huntington Park, County of Los Angeles.

Application No. 16198

Application of (1) Holbrook & Shuler, and (2) J. B. Stimson to sell and (3) East Side Transit Co., Ltd. to purchase certain operative rights, and of East Side Transit Co., Ltd. to issue stock.

Application No. 16291

Richard T. Eddy for applicant in Supplemental Application No. 8580 and Applications Nos. 16121 and 16291, and protestant in Application No. 16198.

Gibson, Dunn & Crutcher, by W. M. Taylor and by H.C. Weeks, for Los Angeles Railway Corporation and protestant in Supplemental Application No. 8580, and Applications Nos. 16121 and 16291.

A. G. McLay, City Attorney, for City of Huntington Park, in support of Application No. 16198.

BY THE COMMISSION:

O P I N I O N

Holbrook and Shuler Transportation Company filed its First Supplemental Application No. 8580 on December 18th, 1929, requesting

authority to revise the route of its motor coach service in the City of Huntington Park as granted by this Commission's Decision No. 11658, dated February 13th, 1923, on Application No. 8580.

Holbrook and Shuler Transportation Company filed its Application No. 16121, on November 25th, 1929, requesting a certificate of public convenience and necessity for the operation of a motor coach service for the transportation of passengers between Elizabeth Street and Atlantic Boulevard (formerly Cudahy Avenue) and Randolph Street and Pacific Boulevard, in the City of Huntington Park, in lieu of the certificate of public convenience and necessity granted by the Commission's Decision No. 11658 on Application No. 8580. In Application No. 16291, the request is made to substitute the East Side Transit Company, Ltd., as applicant, instead of Holbrook and Shuler Transportation Company.

The Los Angeles Railway Corporation filed Application No. 16198, on January 4, 1930, requesting a certificate of public convenience and necessity for the operation of a motor coach service for the transportation of passengers in the City of Huntington Park over and along the following route:

From intersection of Clarendon Street and Pacific Boulevard in the City of Huntington Park; thence via Pacific Boulevard, Florence Avenue, Mountain View Avenue, Live Oak Street, California Avenue, Broadway Street, State Street to Live Oak Street; thence via Live Oak Street, Mountain View Avenue, Florence Avenue and Pacific Boulevard to point of commencement.

Application No. 16291, filed with the Commission on February 11, 1930, requests that Holbrook and Shuler and J. B. Stimson be authorized to sell, and East Side Transit Company, Ltd. be authorized to purchase certain operative rights, and East Side Transit Company, Ltd. be authorized to issue stock as well as to make certain revisions and an extension in the operations of said motor coach services.

Public hearings in these applications were conducted before Examiner Satterwhite in Los Angeles and Huntington Park, the matters having been duly submitted, and are now ready for decision.

Decision No. 11658 granted to H. & S. Transportation Company a certificate of public convenience and necessity for the operation of motor coach service over and along the following route:

Beginning at the intersection of Florence Avenue and Seville Street; thence east on Florence Avenue to Otis Street; thence south on Otis Street to Elizabeth Street; thence east on Elizabeth Street to its intersection with Cudahy Avenue, and returning over identically the same route.

Applicant alleges that shortly after the issuance of said certificate, the route was changed in order to render a more efficient service to the so-called Tract 2599, which is the tract of land bounded on the north by Florence Avenue, on the south by Santa Ana Street, on the east by the L.A. & S.L.R.R. Co.'s tracks, and on the west by a line approximately 200 feet west of State Street. Applicant is now operating west along Florence Avenue to State Street, south on State Street, east on Hope Street, north on California Street and east on Florence Avenue.

Applicant further alleges that permission to make such change was not formally obtained from the Commission due to a misunderstanding that they were not required to obtain such permission when the change of route was entirely within the confines of an incorporated city. H. & S. Transportation Company is hereby placed on notice that no change may be made in a certificated route unless the permission for such change is first obtained formally from the Commission. It appears that the revision in this route, as requested, is in the interest of public convenience and necessity and should be granted.

In Application No. 16121 applicant requests permission to extend its so-called Florence Avenue line which now terminates at the intersection of Florence and Seville Avenues westerly along Florence Avenue

to Pacific Avenue and thence northerly along Pacific Avenue to Randolph Street in the business district of Huntington Park. Applicant alleges that this application was filed after the City of Huntington Park and residents of Tract 2599 had requested applicant to provide said extended service.

At the present time residents of Tract 2599 and other residents living adjacent to the Florence Avenue Line of applicant and desiring to travel between their homes and the business section of Huntington Park are required to utilize the motor coach service of applicant to the intersection of Florence and Seville Avenues and then the cars of the Los Angeles Railway Corporation to the business district of Huntington Park. The fare between Tract 2599 and the business district of Huntington Park at the present is 13 cents or 11½ cents by the use of Los Angeles Railway Company's tokens. Applicant proposes to establish a 6-cent cash fare and 5-cent sixty-ride ticket between the business section of Huntington Park and Tract 2599.

It appears from the record in this proceeding that there is considerable communication between Tract 2599 and the business district of Huntington Park. Several witnesses who testified in this proceeding stated that it was very inconvenient to transfer from the motor coach to the rail line and vice versa, and also the fare required to travel between the business district and their homes was unreasonable.

The proposed extension of this line will parallel the rail line of the Los Angeles Railway Corporation between the intersection of Florence and Seville Avenues and Randolph Street and Pacific Boulevard. Applicant stipulated that it would be willing to have a restriction placed on the proposed extension so that they would not carry any passengers locally between these two points.

Several witnesses from Tract 2599, who appeared in behalf of the City of Huntington Park, testified that the service of Holbrook and Shuler has been conducted in a haphazard manner and the equipment was obsolete and deplorable, and were desirous of having the Los Angeles Railway Corporation establish motor coach service between the City of Huntington Park and Tract 2599. The record does not show any specific instances of inadequate operation but does show that several residents in Tract 2599 were opposed to the type of operation conducted by Holbrook and Shuler.

On the other hand, several witnesses testified that the service of Holbrook and Shuler has always been adequate and satisfactory, and in accordance with the conditions in the territory which it served. These witnesses apparently were of the opinion that H. & S. pioneered this business and operated during the time when the territory was not very well developed and when the streets were in poor condition, and endeavored to give a service commensurate with the conditions which it was required to face. These witnesses were in favor of permitting H. & S. to continue to serve the territory exclusively. It appears from the record in these proceedings that there is no necessity for two motor coach operations between Huntington Park and Tract 2599, nor is there sufficient business to warrant two such operations.

We are not conclusively convinced that H. & S. have been entirely negligent in the performance of an adequate and sufficient service between Huntington Park and Tract 2599. We would like to point out that the testimony of the complaining witnesses, given sincerely but without specific and definite facts, should be a warning to Holbrook and Shuler, and further that H. & S. cannot expect to be permitted to retain a monopoly of service in any district unless they do perform an adequate and efficient service.

Had there been a clear and affirmative showing of negligence on the part of H. & S. to perform or endeavor to perform a service

commensurate with the needs of the public requiring said service, we would not hesitate to permit a newcomer to enter that particular field. Inasmuch as we have already stated that there was a lack of such a conclusive showing of inadequate and inefficient service, we must protect the existing carrier from a competitor who would divide the business of a territory where two services are not necessary and where there is not sufficient traffic to warrant two such-services.

There appears to be an abundance of evidence in this proceeding relative to the necessity for at least a 30-minute service and a 20-minute peak hour service on the Florence Avenue line of Holbrook and Shuler. Applicant proposes a 20-minute peak hour and a 40-minute off-peak hour service. We are of the opinion that the more frequent service is warranted on this line and should be provided.

In Amended Application No. 16291 the Railroad Commission is asked to make its order authorizing Charles V. Holbrook and Vernon H. Shuler, co-partners operating under the fictitious name of Holbrook and Shuler Transportation Company, and J. B. Stimson, an individual, operating under the fictitious name of Stimson Transit Company, to sell and transfer to East Side Transit Company, Ltd., a corporation, organized under the laws of the State of California, certain operative rights, properties, assets and business, and authorize East Side Transit Company, Limited, to purchase and acquire said operative rights, property, assets and business and to issue seventy-five (75) shares of its common capital stock with par value of \$10.00 per share for the purpose of paying in part for such operative rights, properties, assets and business, total \$750.00, 25 shares to be issued to Charles V. Holbrook, 25 shares to Vernon H. Shuler and 25 shares to J. B. Stimson.

The operative rights to be transferred are those granted to Holbrook and Shuler by Decision No. 11658, dated February 13, 1923,

on Application No. 8580; by Decision No. 9735 dated November 8, 1921, on Application No. 7032 to J. B. Stimson; by Decision 18071 dated March 14, 1927, to J. B. Stimson on Application 13562; and the lines operated by Holbrook and Shuler in Huntington Park and Bell prior to May 1, 1917, and continuously since that date; also revision, extension and abandonment of operative rights of Holbrook and Shuler Transportation Company as prayed for in Supplemental Application No. 8580 and Application No. 16121.

East Side Transit Company, Ltd. has also requested authority to consolidate the operative rights of the Stimson Transit Company's so-called "Slauson Avenue" line with the operative right of H. & S. Transportation Company's so-called "Baker Avenue" line. Permission is also requested to abandon that portion of the Stimson Transit Company's so-called "Lorena Street" line along 54th Street between Gifford Avenue and Atlantic Avenue, and to extend the line southerly along Gifford Avenue, Baker Avenue and Otis Avenue to the intersection of Otis and Florence Avenues where a connection will be had with the line now operated by Holbrook and Shuler and known as the "Florence Avenue Line." Applicant alleges that the consolidation of operative rights and the extension requested will result in a comprehensive local service in the area traversed, in reduced fares, more frequent service, more direct routes and fewer transfers. There was no protest against that abandonment of motor coach service along 54th Street between Gifford and Atlantic Avenues.

After carefully considering the evidence in these proceedings we are of the opinion that public convenience and necessity will be subserved by such reroutings, abandonment, extensions and consolidation.

The consideration to be paid for the properties, assets, business and operative rights of the two companies, by East Side Transit Company, Limited, was not stated, other than request for

permission to issue 75 shares of the common capital stock of the par value of \$10.00 per share, \$750.00. Financial statements of both companies were submitted at the hearing and filed as exhibits.

The assets of Holbrook and Shuler are shown to have been \$32,295.24, including cash of \$303.01; Liabilities consist of Accounts Payable \$2,089.31; Notes and Contracts Payable \$6,726.76; Reserve for Depreciation (as of Dec. 21st, 1929) \$19,744.01, leaving a net worth of \$5,824.47.

Assets of Stimson Transit Company are shown to have been \$14,619.05; Liabilities consist of Notes Payable \$450.00; Accounts Payable \$2,323.04; Accrued Liabilities not Due \$1,717.99; and Reserve for Accrued Depreciation, as of March 31st, 1930, \$3,586.77, leaving a net worth of \$6,541.25.

Mr. Stimson testified that the value of the equipment shown in the exhibit was not the original cost to him but was what he considered it worth to the business after being reconditioned, although he could not state what the cost of reconditioning had been.

Testimony of Vernon E. Shuler of the firm of Holbrook and Shuler, and J. B. Stimson of Stimson Transit Company, was to the effect that the liabilities of the two companies are not to be assumed by East Side Transit Company, Limited, but that each company is to settle all claims and indebtedness assessed to it up to the date properties are authorized to be transferred by Railroad Commission's order.

After carefully considering all of the evidence in these proceedings we hereby conclude and find as a fact that public convenience and necessity warrant the revision and extension in the route of the Florence Avenue line; the consolidation of operative rights of the Baker Avenue and Slauson Avenue lines; and the extension of the Lorena Street Line; but do not warrant the establishment of a motor coach service by Los Angeles Railway



Corporation between Huntington Park and the so-called Tract 2599.

We are of the further opinion that the request of Holbrook and Shuler Transportation Company and Stimson Transit Company to sell, and East Side Transit Company, Ltd. to purchase the operative rights, etc., as set forth in Application No. 16291, is reasonable, and the issuance of stock is reasonable for purposes specified, viz. the transfer of properties and no part reasonably chargeable to operating expense or to income.

The record shows that J. B. Stimson is now operating over District Boulevard and Loma Vista Avenue, in the Central Manufacturing District, which streets are not public thoroughfares but are owned by said Central Manufacturing District. The Commission has no authority to issue certificates over these private thoroughfares and it will be necessary for East Side Transit Company, Ltd., to obtain permission to route its motor coaches over that portion of its proposed route and the order herein will so provide.

East Side Transit Company, Ltd., 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 in the above entitled applications, the matters having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the reroutings, abandonments, and extensions herein applied for in Supplemental Application No. 8580 and Application No. 16121, by Chas. B. Holbrook and Vernon E. Shuler, and J. B. Stimson and East Side Transit Company, Ltd. in Application No. 16291, be and the same are hereby granted, and

IT IS HEREBY FURTHER ORDERED that Charles B. Holbrook and Vernon E. Shuler, co-partners operating under the fictitious name of Holbrook and Shuler Transportation Company, and J. B. Stimson, an individual, operating under the fictitious name of Stimson Transit Company, be and they are hereby authorized to sell and transfer to East Side Transit Company, Ltd., the certificates of public convenience and necessity as altered and extended by the order herein, property, assets and business referred to in the foregoing opinion, and East Side Transit Company, Ltd., be and it is hereby authorized to purchase and acquire said certificates, properties, assets and business and to sell at par \$10.00 per share, 75 shares of its capital stock in payment for said certificates, properties, assets and business; subject, however, to the following conditions:

(1) The consideration to be paid for the properties herein authorized to be transferred shall never be urged before this Commission or any other rate-fixing body as a measure of value of said properties for rate fixing or any other purpose other than the transfer herein authorized.

(2) Applicants Holbrook and Shuler and J. B. Stimson "Stimson Transit Company," shall file with the Commission immediately upon the transfer authorized herein reports of their operation covering the period of January 1st, 1930, to date of transfer, and East Side Transit Company, Ltd. shall file immediately with the Commission a balance sheet as of date of acquisition of properties.

(3) The rights and privileges herein authorized to be transferred may not hereafter be sold, leased or assigned, nor service thereunder discontinued by East Side Transit Company, Ltd., unless consent of the Railroad Commission has first been secured.

(4) No vehicle may be operated by applicant East Side Transit Company, Ltd., under authority herein granted, 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.

(5) East Side Transit Company, Ltd., shall keep such records of the issue of the stock herein authorized as will enable it to file, within thirty days thereafter, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted shall not become effective until East Side Transit Company, Ltd. has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES THAT public convenience and necessity require the operation by East Side Transit Company, Ltd., of an automotive service for the transportation of passengers between Los Angeles and Huntington Park, Vernon, Maynard and Bell over and along the following routes, with the right to serve intermediate points between termini:

Commencing at Elizabeth Street and Atlantic Boulevard; West on Elizabeth to Otis; North on Otis to Florence Avenue; West on Florence to California; South on California to Hope Street; West on Hope to State Street; North on State to Florence Avenue; West on Florence to Pacific Boulevard; North on Pacific Boulevard to Randolph Street; Return via the same route:

Commencing at Lorena Street and Whittier Boulevard; South on Lorena to Downey Road; South on Downey Road to District Boulevard; East on District Boulevard to Loma Vista Avenue; South on Loma Vista Avenue to 54th Street; East on 54th Street to Gifford Avenue; South on Gifford to Baker Avenue; East on Baker Avenue to Otis; South on Otis to Florence Avenue; Return via same route.

Commencing at Elizabeth Street and Atlantic Boulevard; West on Elizabeth to Otis; North on Otis to Florence Avenue; West on Florence to California; South on California to Hope Street; West on Hope to State Street; North on State to Florence Avenue; West on Florence to Pacific Boulevard; North on Pacific Boulevard to Randolph Street; Return via the same route.

IT IS HEREBY FURTHER ORDERED that a single certificate of public convenience and necessity for such a service, to be operated as a unified consolidated system, be and it is hereby granted to East Side Transit Company, Ltd., said certificate to be in lieu of all operating rights heretofore granted to Holbrook and Shuler and J. B. Stinson, including the operating rights as enlarged and altered by the order herein and transferred to said East Side Transit Company, Ltd., and not in addition thereto, said in lieu certificate to be subject to the following conditions:

(1) No passengers shall be transported locally between the intersection of Florence and Seville Avenues and the intersection of Pacific Boulevard and Randolph Street.

(2) That applicant East Side Transit Company, Ltd., shall within fifteen (15) days from the date hereof file an acceptance of the certificate granted by the order herein which acceptance shall specifically state that the certificate granted herein to said East Side Transit Company, Ltd., is accepted as a certificate issued in lieu of all rights previously established by Holbrook and Shuler and J. B. Stinson or certificates granted to them by the Railroad Commission including the reroutings, abandonments and extensions authorized by the order herein.

(3) That the East Side Transit Company, Ltd. shall file effective not later than thirty (30) days from the date of this order, upon not less than five (5) days' notice to the Commission and the public, a tariff published in accordance with the Commission's G.O. No. 79, containing the

fares, rules and regulations set forth in Application No. 16291, which tariff shall supersede the fares, rules and regulations now published in the present tariffs of Holbrook and Shuler and J. B. Stimson.

(4) That East Side Transit Company, Ltd., shall file effective not later than thirty (30) days from the date of this order time schedules showing service under a thirty-minute headway during the off-peak hours and twenty-minute headway during peak hours on the Florence Avenue line, otherwise as set forth in Application No. 16291, which time schedules shall supersede the time schedules on file with the Commission by Holbrook and Shuler and J. B. Stimson.

(5) East Side Transit Company, Ltd. shall file with the Commission the written consent and authority of the Central Manufacturing District for the operation of motor coaches over and along the private thoroughfares referred to in the foregoing opinion.

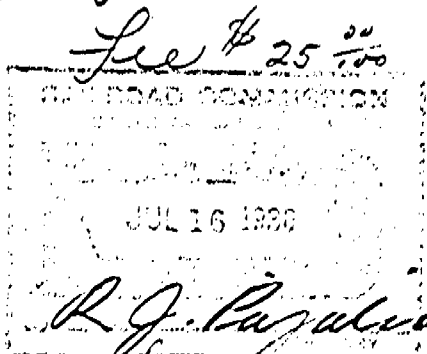
IT IS HEREBY FURTHER ORDERED that the above entitled application No. 16198 be and the same is hereby denied.

The Commission reserves the right to issue such other and further orders in these proceedings as to it may appear to be just and proper, or as may be required by public convenience and necessity.

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 14th day of

July, 1930.



C. C. Seaver

Ernest L. Deane

W. M. Linn

Commissioners.