

Decision No. 31149

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Motor Transit Company, a corporation,) Sixth Supplemental
for an in lieu certificate of public) Application No. 20948
convenience and necessity.)

BY THE COMMISSION:

ORIGINAL

SIXTH SUPPLEMENTAL OPINION

By this supplemental application Motor Transit Company, a corporation, requests authority to establish and operate an automotive service as a common carrier of passengers between Yorba Linda and Brea as an extension and enlargement of and to be consolidated with applicant's existing right. This application is filed pursuant to Decision No. 30476, dated January 3, 1938, on Application No. 21559, whereby Pacific Electric Railway Company was authorized to discontinue its passenger service on its Los Angeles-Whittier-La Habra-Fullerton-Yorba Linda rail line. The decision provided that "Applicant shall endeavor to work out a plan whereby certain schedules of the Motor Transit Company can be operated through the community of Yorba Linda, in order that the residents of that area shall not be entirely without public passenger service, and so advise the Commission of the results within thirty (30) days from the date of this order."

Applicant proposes one round trip daily leaving Yorba Linda at 8:28 A.M. inbound and departing from Los Angeles outbound at 4:30 P.M.

Fares to be established on the service herein proposed are those as shown on Exhibit B attached to and made a part of this application.

The service as proposed has the approval of the Yorba Linda Chamber of Commerce as indicated by Exhibit C of the above numbered application.

Applicant further proposes that this service be operated for a trial period of ninety (90) days to determine whether or not there will be sufficient patronage from the Yorba Linda district to warrant its continuance. If, however, at the end of the ninety (90) day period, it is found that revenues derived from said operation are not sufficient to meet the cost thereof, the service proposed will be discontinued.

This application appears to be a matter in which a public hearing is not necessary and as it further appears that the proposed service will be in the public interest the application will be granted, subject to the exception that applicant's request for a trial period of ninety (90) days will be denied and the certificate herein granted made continuous in nature subject to further application by Motor Transit Company for authority to discontinue said service if justified.

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 to the number of rights which may be given.

SIXTH SUPPLEMENTAL ORDER

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HEREBY DECLARES that public convenience and necessity require the establishment and operation by Motor Transit Company, a corporation, of an automotive service as a passenger stage corporation as such is defined in section 24 of the Public Utilities Act for the transportation of passengers between Yorba Linda and Brea as an extension and enlargement of, and consolidated with, with existing common carrier service of applicant, over and along the following route:

Between the intersection of Pomona Avenue and Imperial Highway, Brea, east and southeasterly on Imperial Highway to the intersection of Imperial Highway and Main Street, Yorba Linda.

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

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. 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 obtained.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that applicant's request for a trial operating period of ninety (90) days for this service be and the same hereby is denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 1st day of August, 1938.

Paul W. Quinn
John A. White
Frank P. Brown
Wey & Kelly
COMMISSIONERS