

Decision No. 22467

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )  
 )  
 PACIFIC ELECTRIC RAILWAY COMPANY, )  
 a corporation, for permission to )  
 acquire from Motor Transit Company, )  
 a corporation, all of its assets, )  
 including operating rights; also )  
 )  
 MOTOR TRANSIT COMPANY, a California )  
 corporation, for permission to dispose )  
 of and convey to Pacific Electric )  
 Railway Company all of the assets, )  
 real and personal, and improvements )  
 thereon, including operating certifi- )  
 cates owned by Motor Transit Company; )  
 also )  
 )  
 PACIFIC ELECTRIC RAILWAY COMPANY, )  
 a corporation, for an in lieu )  
 certificate of public convenience )  
 and necessity. )

ORIGINAL

Application No. 22582

C. W. CORNELL & FRANK KARR, for Applicants.

CHARLES A. BLAND, Interested Party.

JOHN W. HOLMES, Interested Party.

BY THE COMMISSION:

O P I N I O N

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order approving the transfer by it to Pacific Electric Railway Company, a corporation, of all of its assets, properties and operative rights for the automotive transportation as a common carrier of passengers, baggage and express between points in the counties of Los Angeles, Orange, Riverside and San Bernardino; and, Pacific Electric Railway Company has petitioned for authority to acquire said operating rights and to hereafter operate thereunder.

Pacific Electric Railway Company further requests that the authority herein sought be granted as an extension and enlargement of

its existing rights and consolidated therewith.

A public hearing in this matter was had before Examiner Hunter in Los Angeles on February 25, 1939, where the matter was submitted and is now ready for decision.

Pacific Electric Railway Company now owns all of the capital stock issued and outstanding of Motor Transit Company, to wit: 1,306,926 shares of the par value of \$1 each and is further in full control of the matter of the operation of Motor Transit Company with the same officers and agents in many instances common to both companies.

Under the instant proposal, Pacific Electric Railway Company will continue to render the same services as now being conducted by Motor Transit Company until change in routings as extensions or abandonments may hereafter be accomplished in appropriate proceedings to meet changing conditions. This merger will not involve a change in the fare structure on the lines now operated by Motor Transit Company.

Upon approval by the Commission of the transfer of properties obtained herein, Motor Transit Company will be dissolved and all of its assets distributed to Pacific Electric Railway Company, its stockholder, as a liquidating dividend.

Applicants allege that the disposition of the assets of Motor Transit Company to Pacific Electric Railway Company is for the purpose of simplifying the corporate structure and permit the performance of all services now rendered by one agency, namely Pacific Electric Railway Company, instead of by two agencies through the fiction of Motor Transit Company, as in reality, the operations of Motor Transit Company, approximately 425 route miles, are in fact now carried on by and under the direction of Pacific Electric Railway Company and its officers and agents. The record shows that the

proposed consolidation will permit of an annual saving of some \$5400 in accounting, cost of management and taxes.

The following data taken from the record shows a cross-section of applicant Motor Transit Company's operating results and investment in used and useful property.

From Exhibit "B" attached to the Application

MOTOR TRANSIT COMPANY

STATEMENT OF INCOME (CONDENSED) AND PROFIT AND LOSS ACCOUNTS  
TWELVE MONTHS PERIOD ENDED DECEMBER 31, 1938

<u>Income</u>	<u>Total</u>
<u>1. Operating Income</u>	
Operating revenue	\$754 725 16
Operating expenses	555 883 09
Depreciation and amortization	71 339 47
Taxes and licenses	87 724 62
Operating rents	<u>21 279 29</u>
Net operating income	<u>\$ 18 492 69</u>

FROM Exhibit "E" attached to the Application

MOTOR TRANSIT COMPANY

STATEMENT OF PROPERTY OWNED AS OF DECEMBER 31, 1938

	Ledger Value <u>12/31/38</u>	Depreciation Accrued to <u>12/31/38</u>	Depreciated Value <u>12/31/38</u>
<u>1201 - Land and Land Rights</u>	\$36 945 05	-	\$ 36 945 05
<u>1211 - Structures</u>	30 912 19	\$ 21 412 31	9 499 88
<u>1221 - Revenue Equipment</u>	776 210 34	409 318 71	366 891 63
<u>1231 - Service Cars and Equipment</u>	8 837 59	8 027 05	810 54
<u>1241 - Shop and Garage Equipment</u>	9 055 68	8 942 01	113 67
<u>1251 - Furniture and Office Equipment</u>	30 546 19	30 252 43	293 76
<u>1261 - Miscellaneous Equip.</u>	125 00	125 00	-
<u>1271 - Improvements to Leasehold Prop.</u>	449 88	312 73	131 15
	<u>\$8930081 92</u>	<u>\$478 396 24</u>	<u>\$414 685 68</u>

Applicants applied to the Interstate Commerce Commission for authority to effect the transfer involved herein in so far as the interstate operations are concerned (No. MC-F-725). The Interstate Commerce Commission issued its order in this proceeding June 28, 1939, wherein Pacific Electric Railway Company was authorized to acquire the operative property of the Motor Transit Company and thereafter operate the two properties as a unified system, provided, however, that certain conditions were to be met.

No protests to the granting of this application were made and as the proposal does not appear to contain any adverse phases relative to the public interest, the application will be granted.

Pacific Electric Railway 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.

O R D E R

Public hearing having been had in the above-entitled proceeding, the matter duly submitted and the Commission now being fully advised in the premises,

IT IS ORDERED that Motor Transit Company be and it is hereby authorized to transfer all of its assets, properties and operative rights as heretofore created by Decision No. 29660, dated April 5, 1937, and amendments and supplements thereto, to Pacific Electric Railway Company, and Pacific Electric Railway Company is hereby authorized to acquire and operate said assets, properties and operative rights as an extension and enlargement of its present rights as created by Decision No. 24854, dated June 13, 1932 and amendments and supplements thereto and consolidated therewith, subject to the following conditions:

1. The consideration to be paid for the property 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 property for rate fixing, or for any purpose other than the transfer herein authorized.
2. Applicant Pacific Electric Railway Company shall within twenty (20) days after the effective date of the order herein unite with applicant Motor Transit Company in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Motor Transit Company withdrawing and applicant Pacific Electric Railway Company accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Motor Transit Company shall within twenty (20) days after the effective date of the order herein, withdraw all time schedules filed in its name with the Railroad Commission and applicant Pacific Electric Company shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Motor Transit Company, which time schedules

shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Motor Transit Company, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.
5. No vehicle may be operated by applicant Pacific Electric Railway Company 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.
6. The authority herein granted to sell and transfer the rights and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein, unless, for good cause shown, the time shall be extended by further order of the Commission.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of

July, 1939.

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*David A. Miller*  
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*Ray A. Casey*  
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*W. H. [unclear]*  
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*Justus J. Caswell*  
COMMISSIONERS