

Decision No. 32237

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASEBURY RAPID TRANSIT SYSTEM, a California corporation, for: (1) a temporary and interim certificate of public convenience and necessity and (2) a certificate of public convenience and necessity authorizing the applicant to operate as a common carrier, a motor coach service for the transportation of persons and their hand baggage between the intersection of Narbonne Avenue and U.S. Highway #101, which intersection is in the County of Los Angeles approximately 1.1 miles south of the unincorporated community of Lomita, and applicant's motor coach terminal at 945 South Hill Street, Los Angeles, California, serving the unincorporated community of Lomita, and the incorporated cities of Torrance and Gardena.

Application No. 23238.

ORIGINAL

In the Matter of the Application of LANDIER TRANSIT CO., INC. for certificate of public convenience and necessity to operate automotive passenger service between the City of Torrance and the City of Huntington Park.

Application No. 23269.

Bart F. Wade and Ware & Berol, by Wallace L. Ware, for Applicant, Application No. 23238

Woodward M. Taylor and Max Utt, for Los Angeles Railway Corporation, Protestant, Application No. 23238

Orville A. Schulenberg, for Motor Coach Corporation, Protestant, Application No. 23238

Lester O. Luce, for City of Gardena, Protestant, Application No. 23238, and Interested Party, Application No. 23269

K. Chas. Bean and Stanley Lanham, for the Board of Public Utilities and Transportation of the City of Los Angeles, Interested Party

John E. McCall, for City of Torrance, in behalf of Applicant, Application No. 23238

F. P. Landier, for Landier Transit Company,  
Interested Party, Application No. 23238

Frank Karr, for Pacific Electric Railway Com-  
pany, Interested Party

Orville A. Schulenberg, E. D. Richards, E. C.  
Lucas, E. F. Parks and C. C. Jensen, for  
Pacific Greyhound Lines, Protestant, Applica-  
tion No. 23238

Wm. H. Silance, for Board of Education, City of  
Los Angeles, Interested Party

E. Russell Priess, for Applicant, Application  
No. 23269

Frank Atkinson, Protestant, Application No. 23269

S. M. Haskins, by Max Utt, for Los Angeles Rail-  
way Corporation, Interested Party, Applica-  
tion No. 23269

Ware & Berol, by Wallace L. Ware, for Asbury  
Rapid Transit System, Protestant, Applica-  
tion No. 23269

John E. McCall and Wm. Tolson, for City of Tor-  
rance, Protestant, Application No. 23269

BY THE COMMISSION:

#### O P I N I O N

Asbury Rapid Transit System, hereinafter referred to as Asbury, filed the above entitled application seeking a certificate of public convenience and necessity to operate a motor coach service for the transportation of passengers between Lomita (U.S. Highway No. 101-A and Narbonne Avenue), and Los Angeles.

Landier Transit Company, Inc., hereinafter referred to as Landier, requests a certificate of public convenience and necessity to operate motor coach service for the transportation of passengers between Torrance and Huntington Park.

Public hearings on these applications were conducted by Commissioner Craemer and Examiner Gorman at Torrance and Los Angeles on January 19 and 26, March 21, and April 3 and 4, 1940;

the matters were submitted on the latter date and are now ready for decision.

The two applications were consolidated for the purpose of hearing and decision. Asbury amended its application at the hearing on March 21, 1940, so as to make WALTERIA the southerly terminus of the proposed operation in lieu of Lomita.

Pacific Electric Railway Company, on January 14, 1940, pursuant to this Commission's Decision No. 32599, dated December 5, 1939, abandoned its rail passenger service between Los Angeles and Torrance via Gardena, thereby leaving Torrance and Gardena without public transportation service between said communities and downtown Los Angeles. As a result of the abandonment of said rail service to Torrance, Asbury, on January 15, 1940, commenced a free motor coach service between Lomita and its terminal at 945 South Hill Street, in the City of Los Angeles, and on the same date filed the instant application seeking a certificate of public convenience and necessity for said service. Asbury discontinued the free service on January 24th and the City of Torrance commenced a municipal bus operation on January 25th between WALTERIA and Los Angeles. The City of Gardena, on January 15th, instituted a municipal motor coach service between Gardena and the end of the Los Angeles Railway Corporation's <sup>(1)</sup> Rail Line No. 7 at 116th Street and Athens Way.

Representatives of the City of Torrance have indicated that said city is not desirous of continuing its municipal motor coach line, provided adequate service is established by a private carrier, and have endorsed the service proposed by Asbury. Likewise, the representatives of the City of Gardena indicated that that city was not interested in the continuance of municipal bus

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(1) Hereinafter referred to as Los Angeles Railway.

service, provided adequate motor coach service was established by a privately owned carrier, and endorsed the service proposed by Landier.

Torrance, an industrial city located approximately nineteen miles south of the City of Los Angeles, has an estimated resident population of 10,000 persons. The Mayor of Torrance expressed the opinion that approximately 5,000 people were gainfully employed in Torrance, half of whom reside in that city, the other half residing in Los Angeles and other cities and communities near Torrance. He further estimated that about 2,000 people commute daily to and from Torrance by privately owned automobile.

Prior to January 15, 1940, on which date service was abandoned, Pacific Electric Railway Company operated a shuttle rail passenger service between Hermosillo and Torrance, connecting at Hermosillo with its Los Angeles-Redondo Beach via Gardena Line service, and, in addition, operated one outbound train daily except Sunday from Los Angeles to Torrance, leaving Los Angeles at 6:00 A.M., and two inbound trains daily from Torrance to Los Angeles, leaving Torrance at 7:14 A.M. and 3:55 P.M. The 6:00 A.M. train from Los Angeles and the 3:55 P.M. train from Torrance were operated primarily for the accommodation and convenience of workmen employed at the Pacific Electric Railway shops in Torrance.

The basic headways of the Torrance shuttle rail service were as follows:

<u>Period of Day</u>	<u>Daily except Sunday</u>	<u>Sunday only</u>
A.M. Peak	Approx. 1 hr.	Approx. 1 hr. 20 min.
Midday	1 hr. 10 min.	" " "
P.M. Peak	Approx. 45 min.	" " "
Evening	Approx. 1 hr. 20 min.	" " "

The rail fares between Los Angeles and Gardena and Torrance were as follows:

	<u>Cash Fare</u>	<u>Weekly Pass</u>	<u>Monthly Pass</u>	<u>10- Ride Ticket</u>	<u>30- Ride Ticket</u>	<u>46- Ride Ticket</u>	<u>60- Ride Ticket</u>
Torrance	\$.44 o.w. .77 r.t.	\$3.20	\$12.65	\$3.15	\$9.20	\$9.70	\$14.50
Gardena	\$.28 o.w. .56 r.t.	2.35	9.35	2.20	-	8.15	12.20

The annual financial results of this operation on an out-of-pocket basis were as follows:

Passenger Revenue	\$9,953
Out-of-pocket Operating Expenses	<u>16,753</u>
Out-of-pocket Loss	\$6,800

Applicant Asbury proposes to establish a motor coach service between Walteria and Los Angeles, a distance of 25.1 miles, on headways of approximately one hour and one hour and thirty minutes. Three 33-passenger coaches would initially be required to provide said service.

The fares proposed by Asbury are as follows:

<u>BETWEEN</u>	<u>Kind of Ticket</u>	<u>Los AND Angeles 945 So. Hill St.</u>	<u>Manchester Ave. and Hoover St.</u>	<u>Imperial Highway and Hoover St.</u>	<u>Gardena</u>	<u>Torrance</u>
Manchester Av. & Hoover St.	O.W. R.T. 12 Ride	.07 - -				
Imperial Ey. & Hoover St.	O.W. R.T. 12 Ride	.10 - -	.07 - -			
Gardena (169th St. & Western Ave.)	O.W. R.T. 12 Ride	.20 - -	.15 - -	.10 - -		
Torrance (238th St. & Narbonne Ave.)	O.W. R.T. 12 Ride	.30 .55 2.50	.25 - -	.20 - -	.10 - -	
Lomita & Walteria	O.W. R.T. 12 Ride	.40 .70 3.00	.35 .65 2.50	.30 - -	.20 - -	.10 - -

It may be noted that the one-way and round trip fares proposed by Asbury are substantially lower than those previously in effect on the rail service of Pacific Electric Railway Company.

Asbury, in support of its application, alleged that with the abandonment of the Pacific Electric service to and from Torrance and Gardena, those communities were left without public transportation service; that a study was made of the demand for the proposed motor coach service; that there now exists a widespread and universal demand for applicant's proposed service among the communities and throughout the areas sought to be served; and that such demand warrants the immediate inauguration of the proposed service and vouchsafes its continued and compensatory operation.

Many public witnesses testified in behalf of applicant and many resolutions of civic and fraternal organizations were introduced in evidence in support of the proposed operations.

The evidence of these witnesses and the contents of the resolutions may be briefly summarized as follows: That the proposed service is necessary to meet the needs and convenience of the travelling public; that many residents in and about Torrance and Gardena do not own private automobiles and must depend upon public conveyances for their transportation needs; that Torrance has never had - or at least has not had for several years last past - an adequate passenger transportation service; that many people would use the proposed service; that a public passenger transportation service is necessary to the continued growth and welfare of Torrance and Gardena; and that a through service between Torrance and Gardena would be much more preferable than a service which required a transfer.

Mr. Don L. Campbell, General Manager of applicant, Asbury, estimated the financial results of operation of the

proposed service as follows:

<u>Revenue</u>	
Torrance	\$49 per day
Gardena	14 " "
7300-7900 Block, Hoover Street	23 " "
Manchester & Hoover to Imperial and Hoover	<u>30</u> " "
Total Revenue	\$116 per day
Oper. Expense* 563 miles x 19.6¢ per mile =	\$110 " "

\* Not including interest on investment

The route of Asbury's proposed service between the intersection of 116th Street and South Figueroa Street and its terminal at 945 South Hill Street, a distance of 9.5 miles, is either parallel to and within one-fourth mile or less of one or more rail or motor coach lines of the Los Angeles Railway or is located on the same street as one of said lines.

It will be noted that applicant estimates it will receive \$53 per day revenue in the territory north of Imperial Highway. This represents 631 passengers daily who would have to use applicant Asbury's service in the territory north of Imperial Highway in order for Asbury to derive said revenue.

We believe applicant's witness is overly optimistic in his estimate of the amount of revenue to be derived in the territory north of Imperial Highway, particularly when consideration is given to the fact that the rail or coach lines of Los Angeles Railway, operating either on the same street or within a quarter of a mile of the proposed service, are operated on headways of from four minutes to twenty minutes, as compared to applicant's proposed headways of one hour to one hour and thirty minutes. We are more firmly convinced of our conclusion when we consider that the Torrance Municipal Bus Line transported only 417 passengers in this territory for the entire

month of February, 1940. Mr. Campbell attempted to justify his estimate on the grounds that the municipal service was not known or advertised and that the City of Torrance was purposely making no effort to secure passengers in this territory by reason of their agreement with the Board of Public Utilities and Transportation of the City of Los Angeles. Without question, Asbury could, with a proper advertising campaign, increase the number of passengers, but there is nothing in this record which leads us to believe that the number could be increased to anywhere near the extent estimated.

We are unable to reconcile applicant's estimates with the assertion of Mr. Asbury, President of applicant, that the proposed service would not divert any traffic from the existing carriers.

After carefully considering all of the evidence, it would appear to us that the motor coach service proposed between WALTERIA and Los Angeles would fail to earn sufficient revenue, based on the proposed fares, to pay operating costs. Aside from the question of whether or not the service as proposed would be a financial success, we must give consideration to the question of whether or not public convenience and necessity require the establishment of another public transportation service north of 116th Street. The record is completely devoid of any evidence indicating that the service now being rendered by Los Angeles Railway in the territory north of 116th Street and through which applicant's proposed service would operate is inadequate or unsatisfactory. No witnesses were presented from this area, indicating a need for additional transportation service or signifying that the existing service is unsatisfactory.

The Board of Public Utilities and Transportation of the City of Los Angeles indicated that it was unwilling to grant a permit to Asbury for that portion of the proposed route north of



Imperial Highway, unless operation over that portion of the route be restricted against pick-up and discharge of patrons between Imperial Highway and Olympic and Hill Streets.

Assuming that a certificate were granted to Asbury for motor coach service between WALTERIA and Los Angeles, restricted in accordance with the recommendation of the Board of Public Utilities, it is obvious that such a service would fail, by a large margin, to earn sufficient revenue to meet operating expense. The operating expense for such a service would be substantially the same as that for the service proposed by applicant, namely, \$110 per day, while the revenue derived would be approximately \$63 per day, based on applicant's estimates previously quoted.

A service between WALTERIA and Los Angeles without transfer would undoubtedly be superior to one which required transfer; however, the amount of traffic available is insufficient to warrant such a through operation and the residents of the communities south of 116th Street would be in a better position having a service requiring transfer than having no service at all.

As previously pointed out, there are now two municipal bus lines being operated in the area involved in these proceedings and we have before us two applicants for certificates to supplant these municipal services. The record is clear that the territory involved herein is such that the traffic available is insufficient to support more than one operation. If both the Torrance and Cardena municipal bus lines were to be continued in the future, without the competition of a privately owned carrier, there appears to be no likelihood of either of the municipal services becoming compensatory. Both cities have indicated a desire to discontinue their municipal bus lines, providing an adequate service would be provided by a private carrier. Neither of the applicants herein has proposed a

service satisfactory to both cities. Asbury's proposed route through Gardena is not satisfactory to that city and the service proposed by Landier is unsatisfactory to the City of Torrance.

Landier proposes to operate between Huntington Park and Torrance. In support of its application, it alleged that the City of Torrance is now without any permanent passenger transportation service; that at the present there is no easterly and westerly transportation across the southerly portion of Los Angeles; that in the vicinity of the easterly terminus of the proposed route and for some distance along said route are many factories and industries; that applicant is of the opinion that many of the employees of said industries reside to the south and west of said industrial district; that many of said employees who now use their privately owned automobiles would use applicant's proposed service; that the City of Gardena is now operating a temporary bus service and is desirous of having said service supplanted by a privately owned transportation system; and that many schools are located along the proposed route.

No evidence was introduced by applicant to show that public convenience and necessity required a passenger transportation service between Huntington Park and Torrance. No public witnesses were called to support the allegations contained in the application, which allegations were based on information and belief.

Applicant estimated that the proposed service would produce a revenue of \$47 per day, as compared with an operating expense of \$51 per day. The fares proposed by applicant Landier, in conjunction with the present fares of the Los Angeles Railway between Los Angeles and Gardena and Torrance, would be as follows:

<u>Between Los Angeles and</u>	<u>One-Way</u>
Gardena	\$ .20
Torrance	\$ .30
School Tickets (40-ride)	75% of regular rate

After carefully considering all of the evidence in this proceeding, we are of the opinion that public convenience and necessity require the operation of a motor coach service between WALTERIA and a connection with the rail lines of the Los Angeles Railway at 116th Street and Vermont Avenue and 116th Street and Broadway. We believe a service of this character would be<sup>a</sup> financial success, provided the Cities of Gardena and Torrance discontinue the presently operated municipal bus lines. We are also of the opinion that the certificate should be granted to Asbury.

We are unable to find that public convenience and necessity justify the granting of a certificate to Landier for the service proposed.

The route proposed by Asbury for service through Gardena is not, in our opinion, the route best suited to serve said city and the Order herein will contain a route which we believe is more properly designed to meet these needs. Asbury should also give consideration to the rendering of more frequent service, should the public needs demand.

Pacific Greyhound Lines (formerly Motor Coach Corporation), operate bus service for the transportation of passengers along the identical route proposed by applicant, Asbury, between the intersection of Narbonne Avenue and U.S. Highway 101-A and the intersection of Cabrillo and Torrance Boulevard. The record does not indicate a need for additional service in this area.

The Los Angeles Railway Corporation should be admonished at this time that, if the service authorized herein is inaugurated, the Commission will expect and insist that it cooperate with the carrier herein authorized to perform the service, in the way of providing schedules which will, as nearly as possible, make direct connections at the transfer points and will construct suitable waiting and comfort facilities at said transfer points.

Asbury Rapid Transit System 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 as to the number of rights which may be given.

### O R D E R

The above entitled applications having been heard and the Commission being fully apprised of the facts;

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Asbury Rapid Transit System of an automotive service for the transportation of passengers, as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$  of the Public Utilities Act, between WALTERIA (City of Torrance), and the City of Los Angeles and intermediate points along the following route:

Beginning at the intersection of Hawthorne Avenue and Redondo-Wilmington Boulevard (U.S. 101-A), thence via U.S. Highway 101-A, Narbonne Avenue, Arlington Avenue, Carson Street, Cabrillo Avenue, Border Street, Torrance Boulevard, Western Avenue, Cardena Boulevard, Normandie Avenue, Rosecrans Avenue and Vermont Avenue, to a connection with Los Angeles Railway Corporation at 116th Street and Vermont Avenue; thence via 116th Street to a connection with Los Angeles Railway Corporation at 116th Street and Athens Way. Returning via the reverse of the foregoing route to point of commencement.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Asbury Rapid Transit System, a corporation, 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) The authority herein granted shall lapse and be void if applicant 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.
- (3) 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 (10) 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.
- (4) 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 (5) days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (5) Applicant shall not transport passengers having both origin and destination along the route between the intersection of Narbonne Avenue and U. S. Highway 101-A and the intersection of Cabrillo and Torrance Boulevard, both points inclusive.
- (6) Applicant is authorized to turn its motor vehicles at termini, either in the intersection or by operating around a block contiguous to such intersection in either direction, and to carry passengers as traffic regulations of the municipalities may require.
- (7) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

- (8) 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 Application No. 23269 be and the same is hereby denied.

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

Dated at San Francisco, California, this 18<sup>th</sup> day of June, 1940.

Ray L. Riley  
James R. Walker  
Raymond L. ...  
...

Commissioners