

Decision No. 39162

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LOS ANGELES TRANSIT LINES to exercise rights and privileges under street car and bus franchise granted by the City of Los Angeles, and for order authorizing an agreement with the City of Los Angeles relinquishing and terminating existing street railway franchises.

ORIGINAL

Application No. 27425

GIBSON, DUNNE & CRUTCHER, by MAX EDDY UTT, Attorneys, for Applicant.

K. CHARLES BEAN, Chief Engineer, Department of Public Utilities and Transportation, and ROGER ARNEBERG, Assistant City Attorney, for the City of Los Angeles.

O P I N I O N

Los Angeles Transit Lines has been granted a franchise by the City of Los Angeles covering the operation of its street railway, trolley coach and motor coach services, such franchise being granted by Ordinance No. 90343, adopted April 1, 1946. This application to the Commission is for a certificate of public convenience to exercise such franchise, as required by Section 50 (b) of the Public Utilities Act.

This application was heard at Los Angeles on June 13, 1946, along with three other applications to exercise similar franchises granted by the City of Los Angeles, namely, that of Los Angeles Transit Lines and Pacific Electric Railway Company covering their jointly conducted motor coach service designated as Los Angeles Motor Coach Lines, that of Pacific Electric Railway Company to exercise a franchise covering both its street railway and motor bus operations, and that of Asbury Rapid Transit System for the operation of motor buses. Although a consolidated record was made on these several applications, it was requested that a separate opinion and order be rendered with respect to each.

The franchise granted to Los Angeles Transit Lines by Ordinance No. 90343 does not substantially differ in its terms from that submitted to the Commission in Application 26379 in November 1944, when the Los Angeles Railway Corporation, the predecessor of this applicant, and the Pacific Electric Railway Company, presented a joint application under Section 50 (c) of the Act, for authority to exercise a franchise in a form which they intended to obtain from the City but preliminary to the actual granting of such a franchise. After extended hearings and argument on that application, the Commission rendered its decision thereon on December 21, 1944, (Decision No. 37575, 45 C.R.C. 575). The Commission denied the application for the reason that the terms of the franchise had not yet been approved by the City, the Commission's decision stating that it would be disposed to grant a certificate for the exercise of such a franchise after its approval by the City Council. It is unnecessary, therefore, to review at length the circumstances which prompted Los Angeles Transit Lines to negotiate a new franchise covering all of its public carrier operations within the City of Los Angeles.

The franchise now before us is for a term of twenty-one years. It will supersede all of the existing street railway franchises. Heretofore, motor coach operations have been conducted by authority of annual permits issued by the City, rather than under a franchise for a term of years. No annual fee has been paid for the privilege of operating motor coaches. Upon insistence of the City that applicant renew its expiring street railway franchises, and likewise procure a franchise right for the operation of motor coaches, negotiations with respect to the terms to be incorporated in such a grant appear to have continued over a period of years. Inasmuch as all of the terms of the proposed franchise had not been determined prior to January 1, 1944, it was then agreed that whatever provisions with respect to the payment of annual fees might be incorporated in the franchise eventually obtained, such fees should start as of January 1, 1944. Accordingly, the franchise agreement now consummated expressly provides that the fee provisions set forth in the franchise shall be applicable from and after January 1, 1944.

The fee provisions of the franchise provide that the grantee shall pay quarterly, 2% of that proportion of the total gross receipts from the operation of streetcars which its streetcar revenue miles operated under the franchise bears to the total streetcar revenue miles operated by the grantee both within and without the City. On motor bus operations, the fee is 2½% of gross revenue assigned in like manner to the franchise on a revenue mile basis. The evidence presented by the applicant indicates that, based on 1945 operations, the streetcar miles operated under the franchise would have been 78.91 percent of the total car miles operated, and the bus miles covered by the franchise reflected 63.97 percent of the total bus miles operated. The estimated annual payments to the City, based upon 1945 operating results, will approximate \$250,000 for rail operations and \$60,000 for motor coach operations. The fees actually paid during that year under existing street railway franchises totaled \$156,259.68. The total amount now payable to the City to reflect the difference between the fees actually paid since January 1, 1944, and those agreed to have accrued under the new franchise is approximately \$356,000.00. Such fees have regularly been accrued since that date as an operating expense. The costs incurred in obtaining the franchise, including the filing fee paid to this Commission, are stated to amount to \$1,250.00.

The franchise grant is sufficiently extensive to cover all existing street railway routes and all motor coach routes now operated under certificates granted by this Commission. The street railway routes are specifically delineated. Motor coach and trolley coach services are permitted within designated areas, the power being vested in the Board of Public Utilities and Transportation of the City, without further franchise grant, to authorize reroutings and extensions of coach services. There is also committed to that Board the power to impose reasonable regulations with respect to the use of the streets, as well as adequacy and safety of operations.

Applicant expresses the conviction that the provisions incorporated in this new franchise afford a workable and realistic approach to the problems con-

fronting both it and the City in the development and conduct of an efficient transportation service. Applicant receives the benefit of a long term grant to operate both street railway and motor coach services. Although its annual payments to the City will materially increase, the franchise provisions relating to paving and the maintenance or removal of rail tracks are less burdensome than those provided for in the existing franchises. The regulatory controls reserved to the City with respect to applicant's service obligations and standards, although they might possibly lead to some conflict with the authority exercised by this Commission, should not be viewed as having been designed to detract in any way from the Commission's jurisdiction. As counsel for the City declared at the hearing of the earlier application for a preliminary certificate to exercise such a franchise, it would be entirely appropriate for the Commission to declare, when finding that public convenience and necessity justify the exercise of the franchise, that such action is without prejudice to the right and authority of the Commission thereafter to exercise fully all the jurisdiction vested in it by law with respect to the regulation of the operations and service of the applicant utility. Accordingly, the order herein made will be so conditioned.

O R D E R

Los Angeles Transit Lines having filed an application for a certificate to exercise the rights and privileges under a street car and bus franchise granted by the City of Los Angeles by Ordinance No. 90343, adopted April 1, 1946, and a public hearing having been had upon such application, the matter considered, and it appearing to the Railroad Commission and being found as a fact that public convenience and necessity so require,

IT IS ORDERED that Los Angeles Transit Lines be and hereby is granted a certificate to exercise the rights and privileges granted by the City of Los Angeles by Ordinance No. 90343; this certificate, however, being subject to the

following conditions:

1. That no claim of value for such franchise or the authority hereby granted in excess of the actual cost thereof shall ever be made by the grantee, its successors, or assigns, before this Commission or before any court or other public body.

2. The certificate hereby granted shall be without prejudice to the right and authority of this Commission hereafter to exercise fully all jurisdiction vested in the Commission by law with respect to the regulation of the operations and service of the applicant utility.

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

Dated at Los Angeles, California, this 25th day of

June, 1945.

Harold Ruden
Justin D. Casner
Francis W. Brown
Walter H. Hume
Harold A. Kuls

Commissioners.