

Decision No. 49351**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 LONG BEACH MOTOR BUS COMPANY for a
 certificate of Public Convenience
 and Necessity to operate within and
 between the City of Long Beach and
 contiguous areas.

Application No. 34659

ORDER DISMISSING PETITION OF PETE DRAKE
AND DENYING PETITION OF CITY OF
LONG BEACH FOR A REHEARING

Pete Drake, doing business as Terminal Island Transit Company, having requested in writing that his petition for a rehearing of Decision No. 49170 herein, dated October 1, 1953, be withdrawn from the consideration of the Commission, and good cause appearing,

IT IS HEREBY ORDERED that the petition of Pete Drake, doing business as Terminal Island Transit Company, for a rehearing of Decision No. 49170 herein, be and it is hereby dismissed at his request.

The City of Long Beach also filed its petition for a rehearing of the above-mentioned decision. The first paragraph of its petition is in support of the petition of Pete Drake for a rehearing. Said petition having been dismissed, pursuant to applicant's written request, it necessarily follows that supporting paragraph 1 in the petition of the City of Long Beach is now moot.

Paragraph 2 of the petition of the City of Long Beach again raises the question of the jurisdiction of this Commission to certify an on-call service of Long Beach Motor Bus Company over undedicated roads and streets. The Commission considered this in Decision No. 49170 of Application No. 34659, and concluded it has jurisdiction

to find that public convenience and necessity required the operation of such on-call service over El Embarcadero, Channel Way, and Panorama Drive together with portions of Pico Avenue, and to grant a certificate to the applicant for such service. In granting such certificate, the Commission recognizes that the City of Long Beach may, in the exercise of its police power, close or restrict the use of its undedicated streets and roads to the passage of vehicles, including those of applicant.

Paragraph 3 states that the record contains evidence with respect to the desirability of a transfer exchange, but a reference to the transcript shows merely a statement by the Commander of the Naval Shipyard that "we would not mind a transfer system" (Tr. p. 26), and that he would "like to reiterate our objection to any change which changes the present very satisfactory bus service to something which would require a double fare" (Tr. p. 41). These statements or comments from the Commander do not constitute sufficient evidence on which the Commission could base an order requiring inter-change of transfers.

Paragraph 3 further states that a certificate issued to the applicant should be conditioned in several particulars, including a requirement that equipment acquired by the applicant be "not more than eight years of age, modern in design and in first-class operating condition." The Commission is of the opinion that this is primarily a service matter and not properly includable in a certificate. In the same category is the request that applicant be required to acquire title to all equipment operated under lease in anticipation of the possibility that use of the leased equipment might be denied to the applicant by the lessor company. The Commission retains continuing jurisdiction over such service matters and may consider them at any appropriate time.

Paragraph 4 of the City's petition objects that the applicant's certificate does not contain a requirement that it obtain prior

approval of this Commission before reducing service. However, the Commission is of the opinion that the interest of the people of the City of Long Beach is adequately protected from unauthorized reductions in service by paragraph 5 of its Decision No. 49170 requiring "That until further order of this Commission Long Beach Motor Bus Company shall immediately restore the service that was in effect on all the Long Beach City Lines' routes prior to August 10, 1953, except as to Routes Nos. 1 and 4, as rerouted, and as to said lines frequency of service shall be substantially the same as that in effect prior to August 10, 1953."

The Commission having considered said petition and each and every allegation therein contained, and being of the opinion that no ground for rehearing is made to appear therein,

IT IS HEREBY ORDERED that said petition of the City of Long Beach be, and it is hereby denied.

Dated at San Francisco, California, this 17th day of November, 1953.

R. F. [Signature]
President
JUSTUS J. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners