

DM

Decision No. 13200

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
HUGH GOODFELLOW, WARREN OLNEY, and
W.I. BROBECK, as Trustees, and KEY
SYSTEM TRANSIT COMPANY, a corpora-
tion, EAST OAKLAND RAILWAY COMPANY,
a corporation, OAKLAND AND HAYWARDS
RAILROAD, a corporation, and KEY
SYSTEM SECURITIES COMPANY, a corpo-
ration, to transfer and acquire the
property formerly belonging to San
Francisco-Oakland Terminal Railways,
a corporation, and to issue securi-
ties.

ORIGINAL

Application Number 9367.

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision Number 12931 dated Decem-
ber 14, 1923, authorized the Key System Transit Company to issue
\$2,500,000.00 of first mortgage bonds subject, among others, to the
condition that none of the bonds be issued until the Commission by
a supplemental order has authorized the Key System Transit Company
to execute a mortgage to secure the payment of the bonds and has
fixed the price at which such bonds may be sold and the purposes
for which the proceeds may be used.

On February 16th a supplemental application was filed in
the above entitled matter in which the Key System Transit Company
asks permission to execute a deed of trust to secure the payment
of \$10,000,000.00 par value of its first mortgage bonds and to issue
and sell \$2,500,000.00 of such bonds. The company asks permission
to sell \$1,000,000.00 of the bonds at par and \$1,500,000.00 at not

less than 94 percent. of their face value and accrued interest. The \$1,000,000.00 of bonds which the company intends to sell at par will, pursuant to the reorganization plan of the financial affairs of the San Francisco-Oakland Terminal Railways, be purchased by the F.M. Smith Advisory Committee representing certain of the prospective common stockholders of the Key System Transit Company. The \$1,500,000.00 of bonds will be purchased by the Mercantile Securities Company, E. H. Rollins & Sons, National City Company and The American Bank.

The Key System Transit Company asks permission to use the proceeds obtained from the sale of the \$2,500,000.00 of bonds for the following purposes:-

1. To reimburse the Key System Transit Company for the amount paid in cash by the Trustees on account of the purchase price of the properties at foreclosure sale	\$ 283,561.72
2. To pay unpaid interest on 23rd Ave. Electric Railway First Mortgage Bonds and Oakland, San Leandro and Hayward's Electric Railway First Mortgage Bonds to July 1, 1923	106,377.50
3. To discharge the following indebtedness of the San Francisco-Oakland Terminal Railways:-	
(a) Notes payable to various banks covering moneys borrowed for bond interest	69,550.00
(b) Notes payable to Realty Syndicate Company covering moneys borrowed for bond interest	10,530.00
(c) Real estate mortgage against Stoehr Property #2 due March 17, 1923	22,500.00
(d) San Francisco-Oakland Terminal Railways Equipment notes 5/1/16 center entrance cars (32)	50,000.00
(e) Interest on above notes	1,000.00
(f) Ferry Equipment Trust Certificates	600,000.00
(g) Interest on Ferry Equipment Trust Certificates	3,850.00
(h) Car Equipment Trust Certificates 15 Key coaches	175,000.00
(i) Interest on Car Equipment Trust Certificates	1,954.19
4. To repay loans from Depreciation Fund:-	
(a) For two new ferry boats	350,000.00
(b) For new Key Route cars 15 Key coaches	89,250.00
5. To cover part of the cost of 55 new Traction Div. cars	646,426.59
TOTAL.....	<u>\$2,410,000.00</u>

On February 16th. Key System Transit Company filed with the Commission a copy of its deed of trust which it intends to execute to secure the payment of its first mortgage bonds. On February 25th. counsel for Key System Transit Company, at the suggestion of the Commission, agreed to eliminate from such deed of trust the following provision (Section 33, Article IV)-

"That it will, in each year during the period of this indenture, beginning with the year 1924, expend in maintaining, repairing, renewing and replacing the property subject to the lien hereof, and/or charge to its depreciation account an aggregate amount at least equal to sixteen (16) per cent of its gross operating revenue for such year, provided, that the percentage of gross operating revenue of the company to be so expended annually by it for maintenance, repairs, renewals and replacements and/or charged to its depreciation account may, at the written request of either the Company or the Trustee, be re-determined from time to time, at intervals of not less than three (3) years between each determination, by such person or persons as shall be appointed by the Company and approved by the Trustee. Upon such redetermination, the percentage of gross operating revenues to be expended annually by the Company for maintenance, repair, renewal and replacement and/or charged to its depreciation account, so fixed, shall be certified by such person or persons and filed in writing with the Trustee, and such percentage shall prevail until another percentage shall be in like manner established.

The Company further covenants that on or before the 1st. day of April in each year during the period of this indenture, beginning with the year 1925, it will deliver to the Trustee a written statement signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer, showing (a) a balance sheet as of the 31st. day of December next preceding; (b) a statement, in reasonable detail, of gross operating revenue for the year ending the 31st. day of December next preceding, and (c) the amounts actually expended during such year in maintaining, repairing, renewing and replacing the property subject to the lien hereof, and/or charged to depreciation account, set forth in reasonable detail."

The \$2,500,000.00 of bonds which applicant now asks authority to issue and sell will be dated July 1, 1923 and mature July 1, 1928. They will be designated as the company's first mortgage gold bonds. The initial issue of \$2,500,000.00 will be known as Series "A", and will bear interest at the rate of six per cent, per annum, payable semi-annually. Series "A" bonds are redeemable at the option of the company on 60 days prior published notice on any first day of January or any first day of July prior to their maturity, at par and accrued interest, plus a premium equal to one quarter of one per cent of the par value thereof for each year or fraction thereof

of their then unexpired term.

The bonds of any series may differ from the bonds of any other series in respect to date, time of maturity, rate of interest, terms of redemption (if any) and also in such other respects as the Board of Directors of said company may prescribe, subject only to the restrictions and conditions contained in the deed of trust.

The Commission is also asked to approve the agreement between the Key System Transit Company and Mercantile Securities Company, E. H. Rollins & Sons, National City Company and The American Bank, covering the sale and purchase of the bonds. The Commission will authorize the issue of the bonds subject to the conditions of this order. It will approve the agreement only as indicated in this order, such approval being limited to the extent that affirmative approval is herein given.

The Commission having considered the request of Key System Transit Company to issue \$2,500,000.00 of bonds and execute a deed of trust, and it being of the opinion that the money, property or labor to be procured or paid for by such issue of bonds is reasonably required by the Key System Transit Company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, therefore-

IT IS HEREBY ORDERED that the Key System Transit Company be, and it is hereby, authorized to execute a deed of trust substantially in the same form as the deed of trust filed with this Commission on February 16th, it being understood that Section 33 of Article IV of such deed of trust will be eliminated as agreed in² letter of February 25, 1924.

IT IS HEREBY FURTHER ORDERED that Key System Transit Company be, and it is hereby, authorized to issue \$2,500,000.00 of first mortgage six percent. gold bonds due July 1, 1938.

The authority herein granted is subject to the following conditions:-

a. Of the bonds herein authorized to be issued \$1,000,000.00 face value shall be sold for cash at not less than par, and accrued interest and \$1,500,000.00 face value shall be sold for cash at not less than 94 percent. of their face value and accrued interest.

b. The proceeds (other than accrued interest) obtained from the sale of the bonds shall be used by the Key System Transit Company to finance or pay the following obligations which it is hereby authorized to assume:-

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|---|------------------------|
| (1) To finance part of purchase price of properties because of cash expended by trustees to acquire such properties at foreclosure sale | \$283,561.72 |
| (2) To pay unpaid interest on 23rd Avenue Electric Railway First Mortgage Bonds and Oakland, San Leandro and Haywards Electric Railway First Mortgage Bonds to July 1, 1923 | 106,377.50 |
| (3) To pay notes to various banks covering moneys borrowed for bond interest | 69,550.00 |
| (4) To pay notes payable to Realty Syndicate Company covering moneys borrowed for bond interest | 10,530.00 |
| (5) To pay real estate mortgage against Stoer property #2 due March 17, 1923 | 22,500.00 |
| (6) To pay San Francisco-Oakland Terminal Railways equipment notes | 50,000.00 |
| (7) To pay interest on above notes | 1,000.00 |
| (8) To pay ferry equipment trust certificates | 600,000.00 |
| (9) To pay interest on such ferry equipment trust certificates | 3,850.00 |
| (10) To pay car equipment trust certificates 15 Key coaches | 175,000.00 |
| (11) To pay interest on such car equipment trust certificates | 1,954.19 |
| (12) To repay loans from depreciation fund | 439,250.00 |
| (13) To pay part of cost of 55 new Traction Division cars | <u>646,426.59</u> |
| TOTAL..... | <u>\$ 2,410,000.00</u> |
| (14) The accrued interest may be used for general corporate purposes. | |

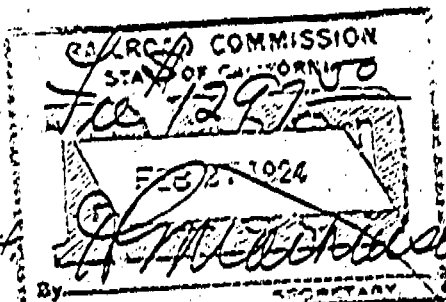
c. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted in so far as this

Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

- d. The agreement of sale and purchase of bonds between Key System Transit Company, and Mercantile Securities Company, E. H. Rollins and Sons, The National City Company and The American Bank, a copy of which agreement, dated February 7, 1924, is on file in this proceeding, is approved to the extent indicated in this order, such approval, however, being limited to the extent that affirmative approval is herein given.
- e. Key System Transit Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th. day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.
- f. The authority herein granted will become effective when Key System Transit Company has paid the fee prescribed by Section 57 of the Public Utilities Act. Under the authority herein granted, no bonds may be issued, sold or delivered after September 1, 1924.

IT IS HEREBY FURTHER ORDERED that the order in Decision Number 12931, dated December 14, 1923, shall remain in full force and effect except as modified by this First Supplemental Order.

DATED at San Francisco, California, this 27th day of February, 1924.



C. L. Seavoy
H. W. Whitteley
Irvine Martin
George Stone
H. W. Whitteley
Commissioners

Refunded
May - 1924

This fee charge was included
in Dec. or Dec. #12931 ap. 9367-6
Dec. 17, 1923. Paid by the Receipt No. 18035. H. W. Whitteley