

Decision No. 14042

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application )  
of the Key System Transit Company. )  
a corporation, for an Order per- )  
mitting the establishment of a )  
Passenger Fare of 36 cents from )  
San Francisco to Oakland and return. )  
including an admission ticket to )  
Idora Park. )

APPLICATION NO. 10181.

Morrison, Dunne & Brobeck, by E.A. Judy, for Applicant.  
Arthur Strehlow, for Neptune Beach Company, Protestant.

SEAVEY, COMMISSIONER:

O P I N I O N

The above numbered application of the Key System Transit Company, hereinafter referred to as applicant, seeks authority to file a tariff establishing a round trip fare for the transportation of passengers from San Francisco to Oakland (55th Street and Telegraph Avenue) of 36 cents, which fares includes an admission ticket to Idora Park, having a value of 10 cents.

This proceeding is the result of the Commission rejecting, under date April 28, 1924, applicant's Local Excursion Tariff No. 4, C.R.C. No. 6, which tariff, containing the proposed fare, was issued to become effective April 30, 1924 and to expire November 2, 1924.

The rejection of the tariff followed protests from the City of Alameda and the Alameda Park Company, which protests

were based upon the grounds that the round trip charge of 36 cents, including a ticket to Idora Park, created an unlawful discrimination and was in violation of Section 21, Article XII, of the State Constitution, and Section 19 of the Public Utilities Act.

Section 21, Article XII, of the Constitution of this State provides:

"No discrimination in charges or facilities for transportation shall be made by any railroad, or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State."

The Public Utilities Act, Section 19, provides:

"No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service or facilities or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section".

Applicant operates an interurban service between San Francisco and points located in Alameda County and in Contra Costa County, the principal communities being Oakland, Emeryville, Berkeley, Albany, San Leandro, Hayward, Richmond and San Pablo. The one-way fare is 18 cents between San Francisco and all points located in Alameda County districts embraced in Routes Nos. 1 to 10, inclusive, terminating at Berkeley, Bancroft Way, North Brae, Albany, Claremont, Piedmont Avenue, Broadway, Third Avenue and East Eighteenth Street, 41st Avenue, and Trestle Glen.

Applicant also publishes, between Oakland and certain interurban points, a fare of 18 cents, the most important communities being Hayward, Richmond (20th St. West), Point Richmond, San Pablo and East Richmond. All persons traveling between these last named points and Idora Park, Oakland, are required to pay a one-way fare of 18 cents, or 36 cents for the round trip, and in addition thereto must pay the 10 cents admission to Idora Park, thus making a total charge of 46 cents, as compared with a charge of but 36 cents against persons traveling from San Francisco to Idora Park (Oakland). This is the discrimination alleged to be in violation of the State Constitution and the Public Utilities Act protested by the interested parties and communities.

Testimony was introduced by applicant to show that prior to the year 1924 similar tariffs had been issued and that a certain volume of business had been created between San Francisco and Idora Park advantageous not only to the carrier, but also to the Park management.

Idora Park is a pleasure resort located between 56th and 58th Streets and Telegraph and Shattuck Avenues in the city of Oakland, comprises approximately 17 acres of land and has a value estimated at \$900,000.00. The Park has been in operation for some 25 years and embraces in its activities all of the features usually found in Amusement Parks, such as a fresh water swimming pool, roller coaster, scenic railway, merry-go-round, skating rink, etc.

Exhibits were introduced giving the number of passengers carried on the line serving Idora Park. These exhibits show that for the month of May, 1923 there were sold 3490 Idora

Park tickets (36¢, including admission to the Park), and that during the same month there were sold 38543 one-way 18 cent fares to other passengers using this Line, making the total number of passengers for the month of May, 1923, 42033. For the month of May, 1924, during which time the special round trip Idora Park tickets were not on sale, the total number of 18 cent fares sold was 41377, a reduction in the number of passengers over May 1923 of only 656. Just what influence the withdrawal of the Idora Park tickets had on this total for the month of May 1924 can only be surmised, but it appears improbable that people would forego the outing trips to Idora Park because of the change requiring payment of the 10 cents Park admission. This conclusion seems consistent in view of the fact that a 46 cent charge, including Park admission, is not in excess of the cost at other amusement points around San Francisco Bay.

The Interstate Commerce Commission, acting under the provisions of Section 3 of Interstate Commerce Act, a section similar to Section 19 of the Public Utilities Act, has ruled, (Tariff Circular 18-A, paragraph (h), Rule 34), as follows:

"The Commission has decided that a joint fare may not be made with a carrier that is not amenable to the Act. Therefore, tariffs containing fares applying in connection with stage routes which include hotel accommodations or admission to entertainments must separately show the carrier's portion of such fares, and such portions of fares must be alike to all, regardless of whether or not passenger purchases ticket for stage line or desires the other accommodations mentioned".

The importance of Idora Park as an attraction on the rails of the Key System Transit Company is established; that it yields applicant revenue it would not otherwise receive cannot be

denied, but this does not justify the sale of transportation from San Francisco including admission to the park, and contributing from the transportation collection to a selected group of patrons accommodations furnished by a corporation not under the jurisdiction of this Commission.

If in the sale of tickets to Idora Park applicant can provide, without additional cost to the passenger, something entirely foreign to the transportation services, there is no reason why a like grant or concession for almost any purpose should not be extended to all points where people congregate for amusement or recreation.

It follows that this Commission, having no jurisdiction over Idora Park, should not under the provisions of the Public Utilities Act authorize or permit applicant to enter into a joint arrangement whereby the transportation sold includes non-utility accommodations. Applicant must publish in its tariffs only the passenger fares, leaving to the traveler the right and freedom to select desired amusement features independent of the transportation costs.

We also find there would be discrimination against passengers traveling to Idora Park from other communities on applicant's rails, such as Hayward and Richmond, where the one way fare is 18 cents, round trip 36 cents, to which must be added the admission charge of 10 cents, a total of 46 cents, as compared with the proposed 36 cent charge from San Francisco.

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The application will be dismissed.

O R D E R

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and the Commission having on the date hereof made and filed a report containing its findings, which said report is hereby referred to and made a part hereof.

IT IS HEREBY ORDERED that the application in this proceeding be denied, and the proceeding is hereby dismissed.

Dated at San Francisco, California, this 11<sup>th</sup>  
day of September, 1924.

C. A. Seavey

Dwight Martin  
Egerton Shore

J. T. Whittney  
Commissioners.