

Decision No. 14617.

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 corporation,
 as grantors, and SOUTHERN PACIFIC COM-
 PANY, a corporation, as grantee, for
 an order authorizing the transfer from
 such grantors to such grantee of a part
 of the railroad properties in Oakland,
 California, formerly known as Califor-
 nia Railway, and for the approval of a
 form of agreement for the sale thereof,
 and the joint use of portions thereof
 by Key System Transit Company and
 Southern Pacific Company, and consenting
 to certain releases.

ORIGINAL

Application No. 10769

- A. L. Whittle and W. R. Alberger, for applicants:
 Hugh Goodfellow, Warren Olney and W.I. Brobeck
 (as trustees), and for Key System Transit
 Company.
- E. J. Foulds and F. L. Burkhalter, for applicant,
 Southern Pacific Company.

DECOTO, Commissioner:

O P I N I O N

Applicants in this proceeding propose to enter into an agreement (Exhibit No. 1 attached to application) in which Hugh Goodfellow, Warren Olney and W. I. Brobeck (as trustees) and Key System Transit Company, are to sell to Southern Pacific Company all of that portion of a line of railway formerly owned by "California Railway" lying south of East Fourteenth Street and east of Fruitvale Avenue, together with all property, rights and franchises attached to said piece of railway and vested in said trustees

and Key System Transit Company, with the exception of the trolley poles, trolley wires, feeders, track bonding and other appurtenances required for the electrical operation of the track. The price to be paid for the property by the Southern Pacific Company is \$120,000. The Southern Pacific Company is to permit Key System Transit Company to continue permanently in the operation of street car service between the intersection of 42nd Avenue and East 14th Street and a point on the property of the Pacific Tank and Pipe Company at or near the north line of what is known as Tidewater Avenue, and to make extensions to such service when such shall become necessary. Key System Transit Company is likewise to be permitted to operate through freight service without rental between Leona Quarry and the Rock bunkers at the end of spur known as the Leona Quarries Spur, which leaves the Washington or Alameda Avenue track at Engineer Station B 13453 and runs southwest to the Tidal Canal. Key System Transit Company shall also have the right to operate over such portion of said tracks as may be necessary in the judgment of the Southern Pacific Company, to enable the former company to deliver and receive shipments from the respective interchange tracks of The Western Pacific Railroad Company and Southern Pacific Company.

The properties which Hugh Goodfellow, Warren Olney and W.I. Brobeck, trustees, and Key System Transit Company desire to sell are covered by the lien of the mortgage or deed of trust of Key System Transit Company, known as the "first mortgage"; and by the lien of the mortgage or deed of trust of Key System Transit Company known as the "general and refunding mortgage". The order herein will authorize the transfer of the properties free and clear of all encumbrances.

The testimony shows that the section of Oakland served by the line of railway referred to herein is growing very rapidly industrially and that the Southern Pacific Company is in a posi-

tion to serve this industrial territory to a much better advantage than can the Key System Transit Company. The proposed transfer appears to be in the public interest.

I herewith submit the following form of order:-

ORDER

Application having been made to the Commission for an order authorizing the sale by petitioners Hugh Goodfellow, Warren Olney and W. I. Brobeck, as trustees, and Key System Transit Company of all property rights and franchises vested in them pertaining to that portion of the line of railway formerly owned by "California Railway" lying south of East 14th Street and east of Fruitvale Avenue in the City of Oakland, and for the approval of a form of agreement for the sale thereof, and for approval of the joint use of certain portions thereof, by Key System Transit Company and Southern Pacific Company, and for a further order granting releases from certain mortgages, a public hearing having been held, the Commission being apprized of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED that Hugh Goodfellow, Warren Olney and W. I. Brobeck (as trustees) and Key System Transit Company be, and the same are hereby, authorized to sell and transfer on or before September 1, 1925, free and clear of all encumbrances, all of their right, title and interest in that portion of the line of railway formerly owned by "California Railway" lying east of Fruitvale Avenue and south of East 14th Street in the City of Oakland, to the Southern Pacific Company, for the sum of One Hundred and Twenty Thousand (\$120,000.) Dollars, such sale and transfer to be in ac-

accordance with the terms of the agreement filed in this proceeding as applicant's "Exhibit No. 1", which agreement is hereby approved; provided that the consideration being paid by the Southern Pacific Company will not be urged by either party as a measure of the value of said properties, or any other properties, for any purpose except the transfer herein authorized.

IT IS HEREBY FURTHER ORDERED that a certified copy of said agreement shall be filed by Southern Pacific Company with the Commission within thirty (30) days after the execution thereof.

IT IS HEREBY FURTHER ORDERED that Key System Transit Company and Southern Pacific Company be, and they are hereby, authorized to operate jointly on portions of said property to be transferred, in accordance with the terms and conditions of the agreement filed in this proceeding as applicant's "Exhibit No. 1."

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 3rd day of March, 1925.
~~February~~

H. A. Brundage

George D. Squires

E. J. ...

Commissioners.