

LRM

Decision No. 16567.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
KEY SYSTEM TRANSIT COMPANY
for an order of the Railroad Commis-
sion of the State of California auth-
orizing the issuance of equipment
trust certificates for the purpose of
paying in part the cost of two new
ferry boats and twenty nine passenger
cars.

Application No. 12725

Brobeck, Phleger & Harrison,
by M. E. Harrison and G.A. Harrison,
for applicant.

ORIGINAL

SEAVEY, Commissioner:

O P I N I O N

In this application the Railroad Commission is asked to make an order authorizing Key System Transit Company to issue \$1,700,000.00 of its five and one-half percent serial equipment trust certificates.

It has been reported to the Commission that applicant's present facilities are inadequate to take care of its business properly and that it is advisable and necessary for it at this time to purchase two ferry boats and twenty-nine passenger cars, this equipment being included in the schedule of proposed expenditures, described in Exhibit "A" attached to Application No. 11329 and referred to in Decision No. 15817, dated December 31, 1926,

Applicant has entered into a contract (Applicant's Exhibit 3) with The Moore Drydock Company for the construction, for \$849,565.50

each, of two double-ended, steel, turbo-electric ferry boats and into a contract (Applicant's Exhibit 4) with American Car Company for the construction, at a cost of \$15,670.00 each, of twenty-nine double-truck, four-motor passenger cars. The total expenditure for the boats and cars will aggregate approximately \$2,153,261.00 and it is to finance a portion of this cost that this application has been made to issue \$1,700,000.00 of equipment trust certificates.

Although Key System Transit Company asks for an order authorizing it to issue the certificates, it appears that they will be executed by a trustee under the terms of an equipment trust agreement (Applicant's Exhibit 6) entered into as of April 1, 1926 between George H. Harris and C. C. Vargas, as vendors, Mercantile Trust Company of California, as trustee, and Key System Transit Company, and pursuant to a lease agreement (Applicant's Exhibit 7) entered into as of April 1, 1926 between Mercantile Trust Company of California and Key System Transit Company. Under these agreements the trustee will hold title to the equipment until all the certificates are paid. Applicant will unconditionally guarantee the payment of both principal and interest, or dividends, of the certificates and will operate the equipment under lease which in effect obligates it to pay the certificates.

The lease provides for the payment by applicant as rental for the equipment the following amounts:-

1. An amount equal to the difference between the actual cost of the twenty-nine passenger cars and the two ferry boats and the amount realized from the sale of \$1,700,000.00 of equipment trust certificates;
2. The necessary and reasonable expenses of the trust, including all expenses connected with the trust equipment and the lease of such equipment;

3. All taxes, assessments, governmental charges upon the income or equipment of the trust;
4. The dividend warrants attached to the trust certificates when and as the same shall become payable;
5. The principal of the trust certificates when and as the same shall become payable whether by declaration or redemption or upon the respective dates of maturity.

The company also covenants that it will maintain and keep the trust property in good and efficient condition, working order and repair, at its own cost and expense and will promptly replace, restore, repair and/or reconstruct at its own cost and expense any of the trust property, or any parts, equipment or machinery appertaining thereto that may be worn out, lost, damaged or destroyed, by new and like property, parts, equipment or machinery of equal value, such value to be taken at the cost, if that be below market value, or at market value, if that be below cost. The company also agrees to keep the trust property insured against loss or damage by fire, and in the case of the two ferry boats, to keep them in such condition and repair as will enable them to receive certificates of the highest qualification for vessels of their respective ages and types in the British Lloyds or in the American Bureau of Shipping, or such other qualification bureau as the trustee may approve.

The certificates will be dated April 1, 1926, bear interest at five and one-half percent per annum, be callable at a premium of two percent and will mature in the amount of \$175,000.00 on the first day of April of each of the years 1927 to 1929, both inclusive, in the amount of \$150,000.00 on the first day of April of the years

1930 and 1931, and in the amount of \$125,000.00 on the first day of April of each of the years 1932 to 1938, both inclusive.

Applicant reports that tentative arrangements have been made to sell the certificates at 95. If sold at this price applicant will realize the sum of \$1,615,000.00, which is \$538,561.00 less than the contract prices of the new equipment. This difference, under the two agreements, must be made up by applicant, and in this connection Mr. C. C. Vargas, assistant to the president of applicant, testified that the amount would be met by issuing short-term notes and by using moneys on hand from the operation of the business and from moneys represented by the reserve for depreciation. It appears that about \$160,000.00 of the amount has been expended already, leaving a balance of about \$377,561.00 yet to be obtained. Mr. Vargas further testified that the earnings of the company, in the opinion of its officers, will be sufficient to enable it to meet its obligations under the equipment trust and lease agreements.

I herewith recommend the following form of order:-

O R D E R

Application having been made to the Railroad Commission for an order authorizing Key System Transit Company to issue \$1,700,000.. of equipment trust certificates, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by Key System Transit Company,

IT IS HEREBY ORDERED that Key System Transit Company be, and it is hereby, authorized to execute and enter into an equipment trust agreement and a lease agreement, substantially in the same form

as those filed in this proceeding as Exhibit "6" and Exhibit "7" respectively, and to assume or guarantee the payment of not exceeding \$1,700,000.00 of five and one half percent serial equipment trust certificates to be issued pursuant to the terms and conditions of said agreements, and assume or guarantee a like amount of temporary trust certificates, which are to be exchanged for permanent certificates as soon as said permanent certificates are ready for delivery.

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

1. The authority granted to execute an equipment trust agreement and lease agreement is for the purpose of this proceeding only, and is granted only insofar as this Commission may have jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such equipment trust agreement and lease agreement as to such other legal requirements to which said agreements may be subject.
2. The equipment trust certificates shall be sold at not less than 95 percent of par value and the proceeds used to finance, in part, the reported expenditures of \$2,153,561.00 for the two ferry boats and the twenty-nine passenger cars referred to in the opinion which precedes this order.
3. Applicant shall keep such record of the issue and sale of the equipment trust certificates 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 insofar as applicable, is made a part of this order.

4. 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, which fee is \$1,350.00.

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 26th day of April, 1926.

H. B. Prundage
C. S. Seavey

Leon A. Wall

Commissioners.

