

Decision No. 21010.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
SAN JOSE RAILROADS, a corporation,
to abandon certain of its bus ser-
vices in the City of San Jose,
California, and for a Certificate of
Public Convenience and Necessity to
Install and Operate a Bus Service on
Martin and Park Avenues and Hedding
Street, City of San Jose, California,
for an experimental period.

Application No. 15382.

BY THE COMMISSION:

O R D E R

ORIGINAL

San Jose Railroads, a corporation, has requested author-
ity to abandon a passenger bus service which it now operates on
Martin and Tillman Avenues, in the City of San Jose, and to estab-
lish a new passenger bus service to operate on Martin and Park
Avenues, entirely within the limits of the City of San Jose.

Applicant has attached to the application a statement
showing that during the twenty month period ending August 31, 1928,
the total revenue collected on the bus line it proposes to aban-
don amounted to but \$3,150.90, while the operating expenses for
the same period totalled \$11,756.77, resulting in a loss of
\$8,605.87. A copy of Resolution No. 4580, adopted January 7, 1929,
by the Council of the City of San Jose granting San Jose Railroads
authority to abandon this service, subject to the approval of
this Commission, is also attached to the application. It appears
to the Commission that public convenience and necessity no longer
require the operation of the bus line which applicant seeks to
abandon and that the application, in so far as it appertains to
such abandonment, should be granted.

The bus line which applicant desires to establish would operate from the intersection of Martin Avenue with The Alameda, via Martin Avenue and Park Avenue to the intersection of Hedding Street with Park Avenue, thence returning via the same route, the one way length of the route being one and one fourth miles. A transfer with the electric rail cars of applicant at intersection of Martin Avenue and The Alameda is proposed.

Permission to install and operate this service has been granted by the Council of the City of San Jose in the above mentioned Resolution No. 4580. In Exhibit "C", attached to the application, the rates of fare to be charged on the proposed line are set forth, these rates being in effect the same as now charged on the rail lines of applicant with similar transfer privileges. A ten-minute headway is proposed and the same equipment which is now in service on the line to be abandoned will be used. It is claimed that the proposed service will serve and supply transportation to a rapidly developing residential district.

It appears to the Commission that this is not a matter in which a public hearing is necessary and that this portion of the application should also be granted. Applicant is hereby notified, however, that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity no longer require the operation of the passenger bus service now performed

by San Jose Railroads from the intersection of Martin Avenue with The Alameda to the intersection of Tillman Avenue with Park Avenue, via Martin Avenue and Tillman Avenue, in the City of San Jose and that public convenience and necessity require the operation by San Jose Railroads of a passenger bus service between the intersection of Martin Avenue with The Alameda and the intersection of Hedding Street with Park Avenue and intermediate points, over a route lying entirely within the City of San Jose and described as follows:

Running from the intersection of The Alameda and Martin Ave. along Martin Ave. in a southwesterly direction to the intersection of Martin Ave. and Park Ave.; thence in a northwesterly direction along Park Ave. to the intersection of Park Ave. and Hedding Street; thence returning southeasterly along Park Ave. to Martin Ave.; thence northeasterly along Martin Ave. to The Alameda.

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to San Jose Railroads to abandon and discontinue operation of its passenger bus line from the intersection of Martin Avenue with The Alameda to the intersection of Tillman Avenue with Park Avenue, via Martin and Tillman Avenues, on ten (10) days notice to the public and to this Commission and to cancel all rates and tariffs now filed in connection therewith.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity be and it is hereby granted to San Jose Railroads for an automotive passenger bus service between the intersection of Martin Avenue with The Alameda and the intersection of Hedding Street with Park Avenue over a route described herein, subject to the following conditions:

(1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

(2) Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical to those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.

(3) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

(4) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 21st day of April, 1929.

David L. Smith

C. C. Seaver

Leon A. Whittell

M. J. Linn
Commissioners.