

Decision No. 23278.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EAST BAY STREET RAILWAYS, Ltd., a corporation, for an order authorizing it to abandon rail service on its No. 10, Piedmont-Hopkins line from 35th Avenue and Hopkins Street, along Hopkins Street to Coolidge Avenue and Hopkins Street in the City of Oakland, County of Alameda, State of California.

ORIGINAL

Application No. 17060.

In the Matter of the Application of EAST BAY MOTOR COACH LINES, Ltd., a corporation, for authority to install and operate a motor coach line in the City of Oakland.

Application No. 17061.

Erobeck, Phleger & Harrison and Chapman, Trefethen, Richards & Chapman, by Frank S. Richards, for the Applicant.

John W. Collier, Deputy City Attorney, for the City of Oakland.

Edwin G. Wilcox, for the Oakland Chamber of Commerce.

George E. Sheldon, for the Uptown Association.

Charles K. Newman, for Lake Merritt Boosters Club.

Harold D. Weber, for the Oakland Business District Association.

J. W. Bingham, for the Hopkins Street people.

BY THE COMMISSION:

O P I N I O N

In Application No. 17060, East Bay Street Railways, Ltd., requests permission to abandon its street car service and tracks on Hopkins Street between Coolidge Street (formerly known

as Peralta Avenue) and Thirty-fifth Avenue, in the City of Oakland, and in Application No. 17061, East Bay Motor Coach Lines, Ltd., requests permission to install a passenger motor bus service substantially along the route where it is proposed to abandon street car service of East Bay Street Railways, Ltd.

The City of Oakland has awarded a contract to repave Hopkins Street from Coolidge Street east to and beyond Thirty-fifth Avenue. If the street car line is to remain, the company, in accordance with the terms of its franchise, may be required to repave that portion of the street occupied by its tracks between Coolidge Street and Thirty-fifth Avenue. It is apparent that if a new pavement is now to be constructed along the tracks, they should at this time be reconstructed. The cost of such work to the applicant would amount to approximately \$72,500. if girder rail type of construction is used; in the event, however, that the reconstruction is done with T-rail, the estimated cost amounts to \$46,350.

The President of the street railway testified, and his testimony is supported by financial statements, to the effect that the East Bay Street Railways, Ltd., (a) was unable to finance the reconstruction of this track and street paving between Coolidge Street and Thirty-fifth Avenue, and (b) that the only practical way of continuing public transportation along this street, if the track is to be removed, is by means of buses, as proposed in Application No. 17061. The Vice-President of the company, in charge of engineering work, testified that the existing track proposed to be abandoned now, with ordinary maintenance, has a useful life for many years to come.

East Bay Motor Coach Lines, Ltd., proposes to install motor bus service on Hopkins Street between Coolidge Street and Thirty-fifth Avenue, as a part of its existing Thirty-fifth Avenue motor bus line, and make connections with the Hopkins Street car line at Coolidge Street.

Property owners in the district affected by the service involved herein and patrons of this car line protested against the abandonment of rail operation and the substitution of motor bus service in lieu thereof, principally on the ground that the service would be less dependable and that an additional transfer would be required with its attending delays and hazards. Testimony of protestants clearly indicated that they are agreeable to relieving the street car company from the paving obligation along the tracks and the attending reconstruction cost, provided the street car service is continued through to Thirty-fifth Avenue.

Counsel for applicant, East Bay Street Railways, Ltd., stated that if the company could have the assurance that the city would relieve it of the paving and track expense, it would ask for the dismissal of both applications involved herein.

After carefully reviewing the record in these proceedings, it appears that the continued operation of the street car service along Hopkins Street between Coolidge Street and Thirty-fifth Avenue better serves the public need for transportation than would be the case if this service were replaced with bus operation, as proposed herein. Consideration must be given, however, to all phases of this matter, one of which is the question of the expense of replacing a track in operating condition with a new one, made necessary by the repaving of the street. It would seem that the

most practical way of handling this situation, and in keeping with the wishes of the property owners and patrons on this line, would be to continue the operation of the rails by maintaining the surface of the street along the tracks with a less expensive type of pavement than hard surface, which would not require the reconstruction of the tracks. The type of paving, however, is a matter for the city officials to determine.

It is apparent, from the record in this proceeding, that the company's revenues are such that any substantial expense will throw an undue burden on the company which will be to the disadvantage of both the company and the patrons of its system.

After carefully considering this record, it appears in this case that the proper determination of these applications is to grant them, contingent upon their becoming effective when the city calls upon the company to bear the paving expense and the attending cost of reconstructing the track. Under such a requirement, the rail service must be continued as at present, until such time as the company is actually confronted with the paving and track renewal expense.

This conclusion is supported by the fact that the East Bay Street Railways, Ltd., is experiencing considerable difficulty in maintaining its service with its present revenues and if it is called upon to expend large sums of money for new paving and new track work, naturally this will have a detrimental effect upon the remaining service.

O R D E R

A public hearing having been held and the matter having been submitted,

IT IS HEREBY ORDERED that East Bay Street Railways, Ltd., is hereby granted authority to abandon and discontinue street car service on Hopkins Street between Coolidge Avenue and Thirty-fifth Avenue in the City of Oakland, State of California, and remove its tracks and appurtenances thereto, provided, however, that this authority shall not become effective allowing said street car service to be abandoned until applicant is actually required by the City of Oakland to finance the repaving of its tracks on Hopkins Street between Coolidge Avenue and Thirty-fifth Avenue.

The Railroad Commission of the State of California, hereby declares that public convenience and necessity will, upon the abandonment of street car service on Hopkins Street as authorized above, require the operation by East Bay Motor Coach Lines, Ltd., of an automotive passenger stage service for the transportation of passengers within the City of Oakland over the following route:

Commencing at the intersection of Thirty-fifth Avenue and Hopkins Street, thence west along Hopkins Street to Maple Avenue, thence south along Maple to Georgia, thence west along Georgia Street to Coolidge Avenue, thence north along Coolidge Avenue to Hopkins Street and thence east along Hopkins Street to Thirty-fifth Avenue, the point of beginning.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such service is hereby granted to East Bay Motor Coach Lines, Ltd., over and along the above described route, provided the rail service along Hopkins Street as authorized herein is abandoned.

IT IS HEREBY FURTHER ORDERED that the operative rights granted herein are granted subject to the following conditions:

- (1) Applicant shall file written acceptance of the certificate herein granted within a period of not to exceed five (5) days prior to the abandonment of street car service by East Bay Street Railway, Ltd., as hereinbefore authorized.
- (2) Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the acceptance hereof, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Order and containing rates and rules which, in volume and effect, shall be identical with those now in effect on said route by East Bay Street Railways, Ltd.
- (3) Applicant shall file, in duplicate, and make effective within a period not exceeding thirty (30) days from the acceptance hereof, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
- (4) Applicant shall commence operation of said service concurrently with the abandonment of street car service of East Bay Street Railways, Ltd., on Hopkins Street between Coolidge Avenue and Thirty-fifth Avenue as hereinbefore authorized.
- (5) 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.
- (6) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that the authorization herein granted shall become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

For all other purposes the effective date of this

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order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13th
day of January, 1931.

C. C. Seavey

Fred G. Stearns

W. B. Haines

M. J. Carr

Commissioners.