

Decision No. 21224.

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 8th Street, from Broadway to 5th Avenue, along 5th Avenue to E. 14th Street, and re-route service on Applicant's No. 9 line in the City of Oakland, County of Alameda, State of California.

ORIGINAL

Application No. 17082.

Brobeck, Phleger & Harrison, by James S. Moore, Jr., and Chapman, Trefethen, Richards & Chapman, by Frank S. Richards, for Applicant.

Decoto & St. Sure, by Ezra W. Decoto and J. Paul St. Sure, for the Uptown Association, in behalf of the application.

Brown, Ledwich and Rosson, by Everett J. Brown and Thomas J. Ledwich, for Downtown Property Owners Association, and for a number of individual protestants.

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

George E. Sheldon, for the Uptown Association.

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

C. Stanley Wood, City Attorney, and John W. Collier, Deputy City Attorney, for the City of Oakland.

Charles X. Newman, for Lake Merritt Boosters Club.

Orton E. Lucas, for Oakland Business District Association and Downtown Property Owners Association.

J. E. King, for Downtown Property Owners Association, in opposition to the application.

STEVENOT, COMMISSIONER:

FIRST SUPPLEMENTAL OPINION AND ORDER

On August 3rd, 1931, East Bay Street Railways, Ltd. filed its supplemental application in the above entitled proceeding, asking

the Commission to make its order amending Decision No. 23279, dated January 13th, 1931, by striking therefrom paragraph 1, which fixes the routing for car line No. 9 (Alameda via Park Street), and paragraph 2, fixing the route for car line No. 15 (38th Avenue Line).

The Commission, by its order of August 4th, 1931, placed the supplemental application on the calendar for hearing for the purpose of considering evidence dealing with the question of public convenience and necessity for the consolidated operation of car lines No. 11 (Oakland Avenue) and No. 15 (38th Avenue).

Public hearings were held on this supplemental application, briefs were filed, the matter was duly submitted and is now ready for decision.

At the opening hearing on this supplemental application, held at Oakland on August 14th, 1931, the applicant amended its original supplemental application, by eliminating all reference to the question of routing on car line No. 9, and confined the application solely to public convenience and necessity for the consolidated operation of car lines Nos. 11 and 15.

The present route of car line No. 11 is as follows:

Commencing at Piedmont Avenue and Rio Vista, along Piedmont Avenue to Linda Avenue, along Linda Avenue to Oakland Avenue, and Harrison Street to 24th Street, to Broadway, south on Broadway to 9th Street, East on 9th Street to Franklin, south on Franklin to 8th Street, west on 8th Street to Broadway.

The present route of car line No. 15 is as follows:

Commencing at Hopkins and 38th Avenue, along 38th Avenue to East 14th Street, along East 14th Street to First Avenue, along First Avenue to 12th Street, along 12th Street to Oak Street, along Oak Street to 13th Street, along 13th Street to Washington Street, south on Washington Street to 8th Street, west on 8th Street to a cross-over near Clay Street.

If the proposed consolidation of routes Nos. 11 and 15 were effected, it would involve the discontinuance of service on that portion of route No. 11 along Broadway, between 12th and 8th Streets, and

around the 9th Street, Franklin Street and 8th Street loop. On line No. 15, it would involve the discontinuance of service on that portion of the line on Oak Street, between 12th and 13th Streets, on 13th Street between Oak and Washington Streets, on Washington Street between 13th and 8th Streets and on 8th Street between Washington and Clay Streets. On the other hand, under the proposed consolidation of operation of these two routes, westbound cars on line No. 15 would enter Broadway at 12th Street, where the cars would turn north on Broadway and follow along route No. 11 and southbound cars on route No. 11 would leave Broadway at 12th Street in an eastbound direction and follow along route No. 15.

The granting of this supplemental application was supported by the Uptown Association and the Oakland Real Estate Board, while the Downtown Property Owners Association and the Oakland Business District Association were protestants. Appearances also were entered by the City Attorney of Oakland and the Lake Merritt Boosters Club, respectively, as interested parties.

The President of East Bay Street Railways, Ltd. testified that the company rested its application to consolidate the operation of routes Nos. 11 and 15 solely upon the question of public convenience and necessity or, in other words, the greatest good to the greatest number of its patrons.

While, in the original testimony, it was shown that the proposed routing would permit of some saving in car miles, applicant stated that this consideration would not be urged as a reason for the granting of the supplemental application.

The record shows that it is practical, from an operating standpoint, to consolidate routes Nos. 11 and 15, as proposed, as each of these lines now operates with approximately the same headway. Such consolidation will not necessitate the construction of any additional tracks.

The parties presented considerable testimony showing traffic checks taken on the cars operated on route No. 15; this information was shown in both tabular and graphic form. The following characteristics of travel are taken from these traffic exhibits:

	<u>Per Cent of Total Number of Passengers on cars at 13th & Webster Sts.</u>
<u>Applicant's Exhibits Nos. 8, 9 and 10,</u>	
<u>(Checks on August 17th, 18th and 19th, 1931,</u>	
<u>6:00 A.M. to Midnight).</u>	
Outbound passengers boarding cars west of Broadway,	52
Inbound passengers on cars west of Broadway,	44
Inbound and outbound passengers riding cars west of Broadway,	48
Inbound and outbound passengers boarding or leaving cars at 13th and Washington Streets,	21
Inbound and outbound passengers riding cars between 13th and Washington Streets and end of line at 8th and Clay Streets,	27
<u>Applicant's Exhibit No. 11 (Check on August 17th,</u>	
<u>18th and 19th, 1931, 6:00 A.M. to Midnight).</u>	
Inbound and outbound passengers transferring to or from north at 13th and Broadway,	21
Inbound and outbound passengers transferring to or from south at 13th and Broadway,	4
<u>Protestant's Exhibit No. 25 (Check taken by</u>	
<u>Applicant on August 13th, 1931, 9:00 A.M.</u>	
<u>to 6:00 P.M.).</u>	
Outbound passengers boarding cars west of Broadway,	56
Inbound passengers on cars west of Broadway,	40
Inbound and outbound passengers riding cars west of Broadway,	48
	<u>Per Cent of Total Passengers on Cars East of Broadway</u>
<u>Protestant's Exhibit No. 29 (Check on</u>	
<u>August 19th, 1931, 9:00 A.M. to 6:00 P.M.).</u>	
Passengers west of Broadway,	65
(Passengers boarding cars at Broadway-fare, 19%	
(Passengers boarding cars at Broadway-transfer, 16%	
Passengers boarding cars at Broadway-total,	35

Supporters of this application offered considerable testimony to show that the trend of development in the business center of Oakland was to the north of the section served by the cars operated

on route No. 15. From this evidence, it is apparent that many of the new and high-class business establishments and places of amusement of Oakland are located along and adjacent to Broadway north of 13th Street; however, the section to the south of 13th Street, particularly along Washington Street, with its large public markets and old established business houses, is still an important trading district of the East Bay cities. It must be recognized that it is a material convenience for shoppers carrying their bags from the markets to be afforded direct transportation without the necessity of a transfer.

On the other hand, protestants called a considerable number of witnesses, residing in that section of Oakland tributary to route No. 15, to show that the present routing of this car line along Washington Street was more desirable than would be the case if the proposed consolidation of routes Nos. 11 and 15 were effected. While this class of evidence, offered by both the supporters and protestants, is an element to be considered, it should not receive as much weight as the record of travel on the cars.

As is indicated above, approximately one-half of the passengers on the cars operated on route No. 15 board or leave the cars west of Broadway. If we are to assume that the traveling habits of the passengers on this line indicate where they desire to go, it must be concluded that the present routing serves the patrons of this line equally as well as would be the case if the proposed application were granted.

A careful analysis of the record in this proceeding, limiting the field to the question of public convenience to the riders, as was proposed by applicant, leads to the conclusion that the weight of evidence justifying the granting of this application is met with an equal amount of evidence on the other side.

It must be recognized that as a fundamental principle in considering a plan of changing an established line of public

transportation, such as is proposed herein, with its resulting effect upon the patrons of the line and the general public, it is incumbent upon the applicant to show that the advantages of the proposed change outweigh the disadvantages. Confining the decision strictly to the question at issue in this case, applicant has failed to make this showing and the supplemental application, therefore, should be denied.

The following form of order is recommended.

O R D E R

Public hearings having been held on the above entitled proceeding, the matter being under submission and being now ready for decision; therefore,

IT IS HEREBY ORDERED that, pursuant to the conclusions set forth in the foregoing opinion, the above entitled supplemental application is hereby denied without prejudice.

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 16th day of November, 1931.

L. H. ...
Leon Whitney
M. J. ...
M. B. ...
Fred G. Stewart

Commissioners.