

Decision No. 21774.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

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 Berkeley, County of Alameda, State of California.

Application No. 17790.

In the Matter of the Application of EAST BAY STREET RAILWAYS, LTD., a corporation, for an order authorizing it to abandon a portion of its rail service on its No. 3 Grove Street Line and remove the rails, ties and appurtenances north of Hearst Avenue in the City of Berkeley, County of Alameda, State of California.

Application No. 17791.

Chapman, Trefethen, Richards & Chapman and Brobeck, Phleger & Harrison by Frank S. Richards for Applicants, Fred C. Hutchinson, City Attorney, for the City of Berkeley, John G. Jury and Frank B. Fitch, for certain residents of Berkeley, Protestants.

STEVENOT, COMMISSIONER:

O P I N I O N

In the above entitled proceedings, authority is sought to discontinue street car operation on the Grove Street (No.3) line of the East Bay Street Railways, Ltd., north of Hearst Avenue and operate a substitute bus service therefor by the East Bay Motor Coach Lines, Ltd.

A public hearing was held on these two proceedings at Berkeley on November 27th, at which time the parties stipulated that the two applications should be consolidated for hearing and determination. The matters were submitted with the understanding that the parties would be afforded an opportunity to file briefs if they so desired. Briefs or replies now have been received and the matter is ready for decision.

In Application No. 17791, the East Bay Street Railways, Ltd., seeks authority to discontinue street car operation and remove the tracks, wires and appurtenances on its Grove Street (No.3) line to the north of Hearst Avenue, hereinafter described.

It appears that the City of Berkeley has filed its Resolution of Intention to improve Oxford Street from Hearst Avenue to Rose Street, Rose Street from Oxford Street to Spruce Street and Spruce Street between Rose Street and Los Angeles Avenue. The Grove Street line follows along these streets proposed to be improved on its southbound movement between Los Angeles Avenue and Hearst Avenue. This paving improvement does not include that portion of the line followed by northbound movements of the Grove Street line on Cedar Street between Oxford and Spruce Streets and on Spruce Street between Cedar and Rose Streets.

This application is accompanied by a copy of an agreement entered into between applicant and the City of Berkeley, identified as Exhibit No.1, which provides that the company is authorized, in so far as the city's consent is required, to remove its tracks along the lines sought to be abandoned, such removal to be effected

upon the receipt of written notice from the City of Berkeley. The agreement further provides that the company shall restore the pavement in kind along that portion of the route not included in the paving proceedings.

In Application No. 17790, the East Bay Motor Coach Lines, Ltd., proposes to establish bus service to serve the district north of Hearst Avenue which heretofore has been served by the Grove Street car line which herein is proposed to be abandoned.

In support of the granting of these applications, it was urged that the proposed plan of rail abandonment and the substitution of bus service therefor would, if put into effect, result in providing reasonable and adequate means of public transportation for the district involved, without any change in the rate structure. There is nothing in this record to show that the proposed plan to abandon rail service and substitute bus operation will, in any way, result in inadequate public transportation in this section of the city.

The granting of these applications, particularly the one relating to rail abandonment, was opposed by certain property owners adjacent to these rail lines. It is apparent that this protest is based primarily upon the question of relieving the company from the obligation of paving those portions of the streets along the tracks where the company, by the terms of the franchises, is required to repave. The only question before the Commission is a question of service. The city having instituted proceedings for the paving of these streets and expressed its approval to the substitution of service thereon, I am of the opinion that the applications to effect these changes should be granted.

With respect to the granting of the application of the East Bay Motor Coach Lines, Ltd., although this particular operation

is wholly in the City of Berkeley, it is part of an inter-city and inter-county operation and, therefore, will require the issuance of a certificate of public convenience and necessity pursuant to Section 50½ of the Public Utilities Act.

In order that the city may proceed with its plan of street improvement, the application for rail abandonment should be authorized at this time, service on the rails to be discontinued coincident with the substitution of bus service. The authority to establish bus service will be issued by a supplemental order in this proceeding, upon the payment of the fee which is required in said Section 50½ of the Public Utilities Act.

#### O R D E R

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

IT IS HEREBY ORDERED that East Bay Street Railways, Ltd., is hereby authorized to abandon street car service and remove its tracks and appurtenances thereto on that portion of its Grove Street No. 3 Line north of Hearst Avenue, City of Berkeley, and more particularly described as follows:

"Beginning at Oxford Street at the intersection of Hearst Avenue, running northerly along Oxford Street to Rose Street, on Rose Street easterly to Spruce Street, on Spruce Street northerly to Los Angeles Avenue, and on Spruce Street from Rose Street to Cedar Street and on Cedar Street from Spruce Street to Oxford Street,"

provided, however, that coincident with the abandonment of said street car service a substitute motor bus service shall be installed and operated by East Bay Motor Coach Lines, Ltd., to serve the same territory.

The Railroad Commission of the State of California Hereby

Declares that public convenience and necessity will, upon the abandonment of street car service on the Grove Street No. 3 Line, 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 Berkeley over the following route:

"From University Avenue and Shattuck Avenue, north on Shattuck Avenue to Hearst Avenue, East on Hearst Avenue to Oxford Street, north on Oxford Street to Rose Street, east on Rose Street to Spruce Street, north on Spruce Street to Los Angeles Avenue and return, south on Spruce Street from Los Angeles Avenue to Rose Street, west on Rose Street to Oxford Street, south on Oxford Street to University Avenue, west on University Avenue to Shattuck Avenue."

An appropriate certificate of public convenience and necessity will be issued by supplemental order in Application No. 17790, upon the payment of the fee as required by Section 50½ of the Public Utilities Act.

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

The foregoing opinion and order is 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 14<sup>th</sup> day of December, 1931.

Clarence  
Leon  
W. J. ...  
W. B. ...  
Fred G. ...  
 Commissioners.