

Decision No. 24568.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of EAST BAY MOTOR COACH LINES, LTD., a corporation, for authority to re-route and consolidate its Rockridge (No. 59) and Montclair (No. 53) lines in the County of Alameda, State of California.

Application No. 17906.

Chapman, Trefethen, Richards & Chapman and Brobeck, Phleger & Harrison, by Frank S. Richards, for the Applicant.
 Wm. D. McGarvie, for Intervenor Montclair Improvement Club.
 C. Stanley Wood, City Attorney and Herbert L. Beach, Councilman, for the City of Oakland, Protestants.
 Girard N. Richardson and C. E. Prather, for City of Piedmont, Protestants.
 Chas. W. Fisher, for Rockridge Improvement Club and residents of the District, Protestants.
 Breed, Burpee & Robinson, by Bestor Robinson, for Claremont Pines Corporation and members of the District, Protestants.
 C. J. Struble and F. B. Fernhoff, for Piedmont Hills Association, Protestants.
 Elliott Johnson, for certain property owners and householders in Claremont Pines District, Protestants.
 C. Victor Smith, for certain property owners, Protestants.
 E. G. Wilcox, a property owner, Protestant.

STEVENOT, COMMISSIONER:

O P I N I O N

In this proceeding East Bay Motor Coach Lines, Ltd., seeks authority to reroute and consolidate its Rockridge (No. 59) and Montclair (No. 53) motor bus lines operating in the Cities of Oakland, and Piedmont, Alameda County.

Public hearings were held in this matter in Oakland on February 2nd, 3rd, 24th and 25th, 1932.

The two motor bus routes involved herein are operated independently of each other. The Montclair bus operates between 41st Street and Piedmont Avenue and the Montclair and Glenwood districts of Oakland, by way of Piedmont Avenue, Pleasant Valley Road, Moraga Road, Thorn Road, Mountain Boulevard and Duncan Way, a total distance of four miles. The entire operation is in the City of Oakland, except a portion of the line along Moraga Road which is through a section of Piedmont.

The westerly terminus of the Rockridge line is at Chabot Road and Claremont Avenue, and the easterly terminus is at the intersection of Broadway Terrace and Proctor Avenue. The route follows along Chabot Road, Patton Street, Broadway and Broadway Terrace. In the westbound direction the line operates around a loop along Golden Gate Avenue and Cross Road, the entire line being located in the City of Oakland and extending for a distance of approximately three miles.

Applicant proposes to consolidate these two lines by operating along Broadway Terrace, between Proctor Avenue and Duncan Way, and to eliminate that portion of the Montclair Route along Moraga Road, between 41st Street and Piedmont Avenue and Hampton Road, and along Thorn Road, between Mountain Boulevard and Moraga Road. Furthermore, it is proposed to abandon that portion of the Rockridge line operating along Broadway, Patton Street and Chabot Road and in lieu thereof to operate south along Broadway and 41st Street from Broadway Terrace to 40th Street and Piedmont Avenue.

An extension is also proposed east along Thorn Road from Mountain Boulevard to Woodhaven Road, a distance of approximately 0.9 miles. This extension is proposed to provide transportation to the district east of Mountain Boulevard, which heretofore has

been served by a free bus furnished by real estate interests.

Applicant contends that public convenience and necessity do not justify the continued operation of a bus line along Moraga Road, due to the fact that this two-mile part of the line is parallel to a street car line for approximately half of the distance and the remainder passes through a canyon where there is very little development. The only section of the route along Moraga Road which is developed to any extent and which is entirely dependent upon this bus line for public transportation is located south of the track of Sacramento Northern Railway Company. However a traffic count, introduced as Exhibit No. 6, shows that the bus line carries comparatively few passengers to or from this area.

With respect to the abandonment of that portion of the Rockridge line north of Broadway Terrace and rerouting it south along Broadway and 41st Street, applicant contends that a saving in operating expenses of approximately \$6,000. can be effected, although it was admitted that the area adjacent to the route now followed on Broadway and Chabot Road is well populated and attracts a considerable volume of traffic to this bus line. Undoubtedly the company would lose all this short haul traffic and some portion of the through traffic if this line was curtailed as proposed.

To avoid steep grades along Cross Road and Broadway Terrace, between Cross Road and Golden Gate Avenue, and to better serve the section, the company proposes to operate in both directions between Broadway Terrace and Country Club Drive and Broadway Terrace or Golden Gate Avenue, along Country Club Drive, Acacia and Golden Gate, thus avoiding the loop movement as is now in effect.

The granting of this application with respect to abandoning

operation along Moraga Road was protested by property owners and residents adjacent to this portion of the line, taking the position that they would be without local transportation if the application was granted. It is evident that the abandonment of this line will take away a service which has been provided in this rather sparsely settled section, but due consideration must be given to the entire transportation problem presented in this proceeding. The revenue derived from this area is small and materially less than the out-of-pocket cost of providing the service. The company should not be obliged to continue to bear this operating loss.

The area along Thorn Road east of Mountain Boulevard, where applicant proposes to establish service, is without transportation as the free bus referred to above has recently been withdrawn. It appears that a considerable amount of traffic will be offered from this area and a service in this district will meet a real public need.

Objection was raised to the rerouting of the line along Country Club Drive and Acacia on the ground that it would be hazardous to pedestrians as there are no sidewalks along Country Club Drive. The record shows that the route proposed is superior to the existing one from both an operating and service point of view. With respect to the question of hazard, it would appear that bus operation would not add materially to the existing hazard resulting from the operation of other types of vehicles on this street.

The area along Broadway and Chabot Road, north of Broadway Terrace, is well built up with residences and, if the plan proposed

by applicant is adopted, these people, who made a vigorous protest, will be without public transportation. Although routing the service south on Broadway to 41st Street and Piedmont Avenue would effect a saving in miles operated, resulting in a decrease in operating expenses, this saving may be more than offset by the loss in revenue. Furthermore, a street car line operates along Broadway to the south of Broadway Terrace and therefore the bus line would serve no real public necessity.

After a review of the entire record, it is my opinion that public convenience and necessity will best be served through the combined operation of the Montclair and Rockridge Lines between Chabot Road and Claremont Avenue on the west, and Thorn Road and Woodhaven Road on the east, along Chabot Road, Patton Street, Broadway, Broadway Terrace, Country Club Drive, Acacia, Golden Gate, Broadway Terrace, Duncan Way, Florence Avenue, Mountain Boulevard and Thorn Road.

East Bay Motor Coach Lines, Ltd., is hereby placed upon notice 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 following form of order is recommended:

O R D E R

Public hearings having been held, the matter being under submission and ready for decision;

IT IS HEREBY ORDERED that East Bay Motor Coach Lines, Ltd.:

I. Is hereby authorized to abandon:

A. That portion of its Montclair (No. 53) line described as follows:

- (a) From 41st and Piedmont Avenue, along Piedmont Avenue to Pleasant Valley Road, along Pleasant Valley Road to Moraga Road, and along Moraga Road to Hampton Road.
- (b) On Thorn Road between Moraga Road and Mountain Boulevard.

(c) On Leo Way between Duncan Way and Broadway Terrace, and that portion on Broadway Terrace from Leo Way to Duncan Way.

B. Those portions of its Rockridge (No. 59) line described as follows:

On Broadway Terrace and Park Road from Country Club Drive to Golden Gate Avenue, and that portion operating on the Cross Road from Golden Gate Avenue to Park Road.

II. Is hereby denied authority:

A. To abandon that portion of its Rockridge (No. 59) line described as follows:

Claremont Avenue and Chabot Road, along Chabor Road to Patton Street, along Patton Street to Broadway, along Broadway to Broadway Terrace.

B. To establish automotive stage service for the transportation of passengers over the following route:

Along Broadway from Broadway Terrace to 41st Street, and along 41st Street, from Broadway to Piedmont Avenue.

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the extension, rerouting and consolidation by East Bay Motor Coach Lines, Ltd., of the automotive stage service for the transportation of passengers of the lines known as the Rockridge (No. 59) and the Montclair (No. 53) lines, in the County of Alameda, State of California, over the following described route:

Beginning at the intersection of Claremont Avenue and Chabot Road, thence easterly along Chabot Road to Patton Street, thence southerly along Patton Street to Broadway, thence southerly along Broadway to Broadway Terrace, thence easterly along Broadway Terrace to Country Club Drive, thence along Country Club Drive to Acacia Avenue, thence along Acacia Avenue to Golden Gate Avenue, thence along Golden Gate Avenue to Broadway Terrace, thence along Broadway Terrace to Duncan Way, thence along Duncan Way to Florence Avenue, thence along Florence Avenue to Mountain Boulevard, thence along Mountain Boulevard to Thorn Road, thence along Thorn Road to Woodhaven Road and return via the same route, all within the City of Oakland, County of Alameda.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for the extension, rerouting and consolidation of such service is hereby granted to East Bay Motor Coach Lines, Ltd., along the route hereinbefore described, subject to the following conditions and not otherwise:

- (1) Said certificate of public convenience and necessity shall not become effective until payment has been made by applicant of the fee as prescribed in Section 50 $\frac{1}{2}$ of the Public Utilities Act of the State of California.
- (2) Applicant shall file written acceptance of the certificate herein authorized within a period not to exceed ten (10) days prior to the consolidation of said service.
- (3) Applicant shall file, in duplicate, and make effective within a period not to exceed thirty (30) days from the date hereof, on not less than ten (10) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the General Orders of the Railroad Commission and containing rates and rules which, in volume and effect, shall be identical with the rates now in force on said routes by applicant.
- (4) Applicant shall file, in duplicate, and make effective within a period not exceeding thirty (30) days from the date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (5) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless 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.

For all other purposes the effective date of this order

shall be ten (10) days from the date hereof.

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 14th day of March, 1932.

C. J. Dewey
Leon Whiteley
W. A. Carr
W. B. Lewis
Fred G. Stewart.
Commissioners.