

Decision No. 25740.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of KEY SYSTEM, LTD., for authority to discontinue passenger service on its Berkeley-Shattuck Ave. line north of Alcatraz Ave. and its Northbrae-Sacramento St. line north of Rose St. Interlocking Tower and to operate over that part of the Southern Pacific California St. line between Rose St. Interlocking Tower and the intersection of Monterey Ave. and Colusa St., in Berkeley, California.

Application No. 18640.

In the Matter of the Application of SOUTHERN PACIFIC CO. for authority to discontinue passenger service on its 18th St. line, its Ellsworth St. line and its California St. line, in Oakland and Berkeley, California, and to grant to Key System, Ltd. trackage right over that part of applicant's California St. line between Rose Tower and Thousand Oaks Station, Berkeley.

Application No. 18641.

Brobeck, Phleger & Harrison and Chapman, Trefethen, Richards & Chapman, by Frank S. Richards, for Key System Limited.

E. J. Foulds, for Southern Pacific Company.

C. Stanley Wood, City Attorney, and O. E. Carr, City Manager, for the City of Oakland.

Edwin G. Wilcox, for Oakland Chamber of Commerce.

Harold D. Weber, for Down Town Property Owners' Association of Oakland.

Fred C. Hutchinson, City Attorney, and Hollis R. Thompson, City Manager, for the City of Berkeley.

Charles C. Adams, Berkeley Chamber of Commerce.

George E. Sheldon, for Commuters Rate Reduction League.

A. R. Linn, Alameda County Chamber of Commerce, Inc.

Edward J. Silver, City Attorney, for the City of Alameda.

M. Mitchell Bourquin and C. L. Markley, for the following named organizations, together with the appearances shown following:

Brotherhood of Railroad Trainmen, by Roy J. Brooks,
Order of Railway Conductors, by Harry See,
Brotherhood of Locomotive Engineers, by P. O. Peterson,
Brotherhood of Firemen and Enginemen, by C. W. Koffitt,
Order of Railroad Telegraphers, by N. D. Pritchett, and
Brotherhood of Maintenance of Ways Employes,
Brotherhood of Railroad Signal Men, by Lee Smith.

Charles C. Boynton, for Bay Cities Properties Corporation, and in propria persona.

SEAVEY, COMMISSIONER:

O P I N I O N

In Application No. 18640, Key System, Ltd., requests authority to modify passenger service on portions of the following lines in the City of Berkeley:

1. To discontinue service on its:
 - (a) Shattuck Avenue Line between Alcatraz Avenue and University Avenue.
 - (b) Northbrae-Sacramento Street Line on Hopkins Street, between the Rose Street Interlocking Tower and Northbrae Station at El Dorado Avenue.
2. To extend the Northbrae-Sacramento Street Line to the north of the Rose Street Tower by operating over that portion of Southern Pacific Company's California Street Line between this tower and the intersection of Monterey Avenue and Colusa Avenue.

In Application No. 18641, Southern Pacific Company requests authority to modify passenger service on the following lines:

1. To discontinue service on its:
 - (a) Eighteenth Street Line in the City of Oakland.
 - (b) Ellsworth Street Line in the Cities of Oakland, Berkeley and Emeryville.
 - (c) California Street Line in the Cities of Oakland, Berkeley and Emeryville.
2. To grant to Key System, Ltd., trackage rights over that part of Southern Pacific Company's California Street Line between the Rose Street Interlocking Tower and the intersercion of Monterey Avenue and Colusa Avenue in the City of Berkeley, Alameda County.

Public hearings were held in these applications in Oakland on January 26th, February 17th and 18th, at the conclusion of which the matters were submitted for decision.

At the initial hearing it was stipulated by all parties that the two matters be consolidated for hearing and determination.

Applicants contend that under their present method of operation there are certain duplications of service which are not required to reasonably meet public needs for transbay transportation and that with the elimination of the operations proposed in the instant applications there will still remain adequate service to satisfy public convenience and necessity and at the same time permit of a total annual saving in operating expenses of over \$300,000.

A discussion of the lines over which it is proposed to discontinue service follows:

Shattuck Avenue Line, Key System, Ltd:

It is proposed to discontinue service on the Shattuck Avenue Line between the intersection of Alcatraz Avenue and Adeline Street, and the intersection of Shattuck Avenue and University Avenue, a distance of about 1.5 miles. This portion of the Key System, Ltd., Shattuck Avenue Line is parallel to and adjacent to the Shattuck Avenue Line of Southern Pacific Company. It is apparent that this dual operation is clearly a duplication of service. The record shows that Southern Pacific Company's

operation on Shattuck Avenue, with added cars during times of peak travel, is adequate to handle the traffic now carried by both these lines. Furthermore, train operation will be confined to two tracks, whereas under the present plan each carrier maintains two tracks and the number of train movements along Shattuck Avenue will be reduced approximately one-half with the attendant reduction in hazard.

Northbrae Line, Key System, Ltd:

It is proposed to discontinue operation on that portion of the Northbrae Line along Hopkins Street from Rose Street Interlocking Tower to the end of the line at Northbrae Station and re-route this service along the tracks of Southern Pacific Company's California Street Line between Hopkins Street and Monterey Station. The length of the line to be abandoned is 0.8 miles. Only two stations are located on Hopkins Street, one at The Alameda and the other at the end of the line at El Dorado Avenue. This latter point is also served by the Shattuck Avenue Line of Southern Pacific Company. By re-routing this line, as proposed, it appears that the adjacent territory will, as a whole, be adequately served.

Eighteenth Street Line, Southern Pacific Company:

The Eighteenth Street Line of Southern Pacific Company operates entirely within the City of Oakland and serves the section of the City to the west of Lake Merritt between the Twelfth Street and Twenty-second Street Lines of the Key System, Ltd. For a greater portion of its length the Southern Pacific Company's Eighteenth Street Line is located from one to four city blocks distant from the Twenty-second Street Line of the Key System, Ltd. The discontinuance of passenger operation on this line, 2.9 miles in length, will eliminate considerable duplication of service

between it and the Twelfth Street and Twenty-second Street Lines of Key System, Ltd., as well as between Southern Pacific Company's Eighteen Street Line and its Seventh Street Line.

Ellsworth Street Line, Southern Pacific Company:

This line operates from Oakland Pier over the tracks of the Shattuck Avenue Line to Adeline and Woolsey Streets, thence over the line sought to be abandoned, 1.5 miles in length, easterly along Woolsey Street and private rights of way to Ellsworth Street, thence northerly along Ellsworth Street to the end of the line at Bancroft Way. This line is located between transbay lines on Shattuck Avenue, Alcatraz Avenue and College Avenue. The record shows that a large percentage of the patrons on the Ellsworth Street Line will have their distance to transbay transportation increased if service on this line is discontinued and that the increased distance to a small percentage of the patrons will be in excess of a quarter of a mile with a maximum walking distance to a transbay line slightly in excess of 2,000 feet.

California Street Line, Southern Pacific Company:

The California Street Line operates from Oakland Pier over the track of the Shattuck Avenue Line to California Junction, thence along the line sought to be abandoned, 3.5 miles in length, northerly along California Street, Monterey Avenue and Colusa Avenue to the end of the line at Thousand Oaks Station. This line, between California Junction and Hopkins Street (Rose Street Interlocking Tower), is located approximately one block east of and parallel to the Northbrae Line of Key System, Ltd., which operates along Sacramento Street. At the Rose Street Interlocking Tower these two lines cross, with the Northbrae Line terminating at El Dorado Avenue and the California Street Line at Thousand Oaks Station. The Thousand Oaks Station is also the terminal of Southern Pacific Company's Ninth Street and Shattuck Avenue Lines.

It was clearly shown that the operation of the California Street Line and the Northbrae Line constitute a duplication of service as far north as Rose Street Interlocking Tower. Sacramento Street is divided into two driveways separated by the railroad right of way and is more suitable for transbay service than is California Street. With this advantage and no offsetting disadvantages, service should be continued on Sacramento Street, as proposed herein, rather than on California Street.

If the proposed plan of elimination of duplication is effected, it will permit of the discontinuance of the operation of the following interlocking plants:

1. Rose Street Tower, located near the intersection of McGee Avenue and Hopkins Street, Berkeley.
2. Woolsey Street Tower, located at the intersection of Woolsey and Adeline Streets, Berkeley.
3. Poplar Street Tower, located at the intersection of Poplar and Eighteenth Streets, Oakland.
4. Tower located at the intersection of Seventh and Webster Streets, Oakland.
5. Tower located at the intersection of Third and Webster Streets, Oakland.

It appears that the plan of operation of the two companies involving the discontinuance for which authority is sought herein is the result of a comprehensive study extending over a period of time. In fact, this plan is more or less along the line of a plan presented as Exhibit No. 17 in 1927, in Applications Nos. 11329 and 11504, which shows the result of a study made by the Commission's engineers at the time these two carriers were seeking an increase in fares. The purpose of this study was to show that certain economies could reasonably be effected and thereby increase the net earnings aside from an increase in fares.

The record shows that the curtailment of service, proposed herein, will permit of a total saving in operating expenses

of about \$310,000, of which \$128,000 accrues to the Southern Pacific Company and \$182,000 to the Key System, Ltd. Evidence was offered by each applicant as to the net earnings to be received should the proposed changes in operation be put into effect, Southern Pacific Company contending that it will still fail to earn any return on its investment, while the Key System, Ltd., estimated its return would be less than five per cent. It is unnecessary in this proceeding to determine the exact revenues of either applicant. It must be recognized that if economies of operation can be effected which will strengthen their earning position and promote efficient service to the body of their patrons without severe inconvenience to any, such operating changes should be permitted.

The City of Berkeley was the only official body which opposed the granting of these applications. The City's objection was directed primarily to the request of the Southern Pacific Company to abandon service on its Ellsworth Street Line. It was the contention that if this service was discontinued it would seriously affect a large number of commuters who reside in the district served by this line, which is fully developed with residences and apartment houses. It was also the City's position that curtailment of service on this line would adversely affect property values. As a compromise, the City proposed that service be continued on this line at least during the times of peak travel in the morning and evening.

Representatives of the various railroad crafts affected on Southern Pacific Company's lines appeared to oppose the granting of this application. In support of their opposition they pointed out that a comparatively large number of their members would be forced to seek employment at other points on the system and in the end a corresponding number of employees in the respec-

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tive crafts would lose their jobs. Furthermore, it was their contention that Southern Pacific Company should obtain permission from the Interstate Commerce Commission before curtailing the service proposed herein on the grounds that these operations are a part of interstate business. Counsel representing the Brotherhood of Railway Employees filed a motion to dismiss these applications on the ground that both applicants are subject to the jurisdiction of the Interstate Commerce Commission and must apply to that body for a permit to discontinue service. The motion is denied. The jurisdiction of this Commission is distinct from that of the Interstate Commerce Commission. The duty of these applicants to obtain the approval of the latter body before discontinuing interstate service does not relieve them of the duty also to first obtain the approval of this Commission to discontinue any part of their local service.

The protests of the Bay Cities Properties Corporation and Charles C. Boynton were directed particularly to the abandonment of the Shattuck Avenue Line. These protests were made chiefly upon the ground that the residents along the Euclid Avenue carline of the East Bay Street Railways, Ltd., a line which affords a connection with the two transbay lines at University and Shattuck Avenues, although not heretofore accorded through commutation rates over the line of the Key System, Ltd., have suffered a discrimination in this respect, and it was urged that the Commission order such through fares established on the same basis as those applying on other lines of the Key System, Ltd. Their protest relates, therefore, not to the elimination of one or the other of the two paralleling lines on Shattuck Avenue, but to the rates charged by the Key System, Ltd. The Key System line on Shattuck Avenue now terminates at University Avenue and it is apparent that through commutation service cannot be made available with existing facilities along Euclid Avenue and that the residents using the Euclid Avenue carline must continue to transfer to the transbay

trains at University and Shattuck Avenues. If transfer privileges at this point are to be accorded, the necessary joint rate agreement may be made by either the Southern Pacific Company or the Key System, Ltd. The Southern Pacific line on Shattuck Avenue serves a considerable area north of University Avenue and it is apparent that if one of the two paralleling lines on Shattuck Avenue is to be eliminated it should be that of the Key System, Ltd.

Considerable attention was given to the question of handling football crowds in Berkeley. The record shows that if the proposed reductions in service are effected it will somewhat reduce the company's ability to handle the football crowds. This, however, is not of sufficient moment to justify retaining service at the expense of the general traveling public as there are only about six days in the year when the football crowds present a problem of transportation. It appears from the record that under the proposed plan of operation the football crowds can be reasonably and adequately handled.

After carefully considering the entire record in these proceedings, it is concluded that both of these applications should be granted as the resulting effect will be that the East Bay cities will receive reasonably adequate service to meet their transportation needs for transbay service. It is apparent that as a result of effecting the changes proposed herein, the district most adversely affected will be that adjacent to the Ellsworth Street Line. In this case, however, the section is practically all provided with transbay service within a distance of 2,000 feet to the nearest station, which is not an unreasonable distance to reach interurban lines. This conclusion takes into consideration that it is in the public interest for all carriers to operate on an efficient basis and eliminate unnecessary duplication

otherwise the general public must make up the deficit, or the service as a whole will naturally suffer.

The following form of Order is recommended:

O R D E R

Public hearings having been held and the matters having been submitted,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to:

- I. Key System, Ltd., to discontinue passenger service on that portion of its -
 - A. Berkeley-Shattuck Avenue Line operating along Adeline Street and Shattuck Avenue between the intersection of Adeline Street and Alcatraz Avenue and the end of the line at University Avenue, City of Berkeley.
 - B. Northbrae-Sacramento Street Line operating along private right of way and Hopkins Street between Rose Street Interlocking Tower (near the intersection of McGee Avenue and Hopkins Street) and the end of the line at El Dorado Avenue, City of Berkeley.
- II. Key System, Ltd., to operate passenger service over Southern Pacific Company's tracks located on Monterey Avenue between Rose Street Interlocking Tower and the intersection of Monterey Avenue and Colusa Avenue.
- III. Southern Pacific Company to discontinue passenger service on its -
 - A. Eighteenth Street Line operating along Eighteenth, Twentieth, Twenty-first and Webster Streets, between Sixteenth Street Station and Second and Webster Streets, City of Oakland.
 - B. Ellsworth Street Line operating along Woolsey Street, private right of way and Ellsworth Street, between Adeline Street and the end of the line at Bancroft Way, City of Berkeley.

C. California Street Line operating along California Street, Monterey Avenue and Colusa Avenue, between California Junction and Thousand Oaks Station in the Cities of Oakland and Berkeley.

IV. Southern Pacific Company to grant to Key System, Ltd., trackage rights over its tracks located in Monterey Avenue, between Rose Street Interlocking Tower and the intersection of Monterey Avenue and Colusa Avenue in the City of Berkeley,

subject, however, to the following conditions:

- (1) Applicants shall give not less than ten (10) days' notice to the traveling public of the changes in passenger service herein authorized by posting notice in all trains and stations affected by said changes in passenger service.
- (2) Applicants shall, within thirty (30) days thereafter, notify this Commission, in writing, of the discontinuance and changes in passenger service herein authorized and of their compliance with the conditions hereof.
- (3) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED that authority is granted to discontinue the operation of the following interlocking plants;

- a. Rose Street Interlocking Tower, located near the intersection of McGee Avenue and Hopkins Street, City of Berkeley;
- b. Woolsey Street Interlocking Tower at the intersection of Woolsey Street and Adeline Street, City of Berkeley;
- c. Poplar Street Interlocking Tower, located at the intersection of Poplar and Eighteenth Streets, City of Oakland;
- d. Interlocking Tower located at the intersection of Webster and Seventh Streets, City of Oakland, and
- e. Interlocking Tower located at the intersection of Webster and Third Streets, City of Oakland,

provided, however, if and when service is resumed on any or all of the lines which results in re-establishing operations over any

or all of the crossings, service of the respective interlocking plant, or plants, shall be resumed.

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.

The effective date of this Order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 16th day of March, 1933.

C. L. Seaver

W. J. Carr

M. B. Harris

M. J. ...

Commissioners.