

Decision No. 27383

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
KEY SYSTEM, LTD. )  
to execute mortgage on certain of ) Application No. 19600  
its tracks. )

Brobeck, Phleger & Harrison, for applicant.

BY THE COMMISSION:

O P I N I O N

Key System, Ltd. asks permission to assume the payment of indebtedness due The Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company in the amount of \$158,877.43, and to execute a mortgage to secure the payment of the same.

The application indicates that by Resolution No. 1928, passed by the Board of Port Commissioners of the City of Oakland on December 15, 1930, permission was granted to applicant to construct certain tracks in the outer harbor area of the City of Oakland connecting with applicant's main line. It is reported that such tracks were constructed and now are owned and operated by applicant, and also certain additional tracks were constructed on rights-of-way leased from Railway Equipment & Realty Company, Ltd. and Key Terminal Railway, Ltd. It appears that the construction was made for the purpose of serving industries, docks, wharves, warehouses, freight depots and/or team tracks located in the outer harbor area.

The total cost of the tracks is reported at \$158,877.43. The record shows that the \$158,877.43 was advanced by The Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company under an agreement whereby applicant should assume the obligation to repay it out of the earnings of applicant from the transportation of freight to and from the outer harbor line, by applying to such repayment twenty percent of the gross revenues from the operation of said line from August 14, 1934, with interest at the rate of five percent on the unpaid balance from and after August 17, 1936, and should give a mortgage on said tracks to secure the repayment.

The Commission has been advised that the \$158,877.43 is carried on the books of applicant as an open account with Railway Equipment & Realty Company, Ltd., the holders of all of applicant's outstanding stock, and in turn advanced by that company. The request now is made for Key System, Ltd. to assume the payment of the obligations to the two steam railroad companies and to execute a mortgage to secure such payment.

A copy of the proposed mortgage was filed in this proceeding on August 31, 1934. An examination shows that it covers the following properties:- Main switching lead of 6,896.20 feet, switching track of 887.32 feet, storage track No. 1 of 1,588.11 feet, storage track No. 2 of 1,345.05 feet, Union Construction Company spur of 378.0 ft., 14th Street dock spur of 1,471.0 feet, warehouse "B" spur of 567.0 feet, warehouse "A" lead spur of 785.0 feet, warehouse "A" spur of 583.0 feet, a total of 14,500.68 feet, together with all appurtenances thereof, including roadbed and overhead trolley system, and also two leases covering rights-of-way, one from Railway Equipment & Realty Company, Ltd. and one from Key Terminal Railway, Ltd.

O R D E R

The Commission has considered applicant's request and is of the opinion that this is not a matter in which a public hearing is necessary, that the proposed mortgage is in satisfactory form and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED that Key System, Ltd. be, and it hereby is, authorized to execute a mortgage substantially in the same form as the mortgage filed in this proceeding on August 31, 1934, to secure the payment of the \$158,877.43 of indebtedness referred to in the foregoing opinion and in said mortgage and to assume and pay said indebtedness under the terms of such mortgage, provided-

1. That the authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which it may be subject, and
2. That the authority herein granted will become effective upon the payment of the fee prescribed by Section 57 of the Public Utilities Act, which fee is One Hundred and Fifty-nine (\$159.00) Dollars.

DATED at San Francisco, California, this 24<sup>th</sup> day of September, 1934.

Fee # 159<sup>00</sup>/<sub>100</sub>  
RAILROAD COMMISSION  
STATE OF CALIFORNIA  
SEP 25 1934  
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Fee # 31054

[Signature]  
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Commissioners.