

Decision No. 27770

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
KEY SYSTEM, LTD.  
to enter into a lease of portions of  
its operative property to KEY TERMINAL  
RAILWAY, LTD., and of KEY TERMINAL  
RAILWAY, LTD. to enter into such lease  
and to operate said lines of KEY  
SYSTEM, LTD.

ORIGINAL

Application No. 19822

Brobeck, Phleger and Harrison,  
for applicants.

BY THE COMMISSION:

O P I N I O N

In this proceeding, filed on February 7, 1935, the Key System, Ltd., asks permission to lease its lines and properties, except such as are exclusively devoted to freight service, to Key Terminal Railway, Ltd., upon the terms and conditions set forth in the revised lease filed in this proceeding on February 20th.

Applicants are corporations and common carriers subject to the Public Utilities Act of the State of California and are engaged as connecting carriers in the operation of an interurban electric railway system with connecting ferry service between the City and County of San Francisco and various points in Alameda County.

It is reported that the Key Terminal Railway Company, Ltd. is solely engaged in the operation of an interurban electric railway and connecting ferry service exclusively as an intrastate carrier, and that the principal portion of the Key System, Ltd.'s business is the transportation in intrastate commerce of such interurban business, but it is also engaged to a certain extent in the transportation of freight, both in interstate and intrastate commerce.

Heretofore the revenues and expenses of the two connecting carriers have been apportioned between them. In 1933 the operating revenues of the Key System, Ltd. were reported at \$1,076,894.16 and those of the Key Terminal Railway, Ltd. at \$755,917.59. It is now proposed that the interurban passenger business be conducted in its entirety by the Key Terminal Railway, Ltd..

Applicants are of the opinion that it is in the public interest to have all of the passenger electric railway and connecting ferry service operated by a single company and engaged in no other business. In so doing, the necessity of issuing joint tickets and tariffs would be avoided, as would also the segregation of the revenues and expenses incident to the interurban passenger business. While this is desirable, it is not expedient at this time to transfer the physical properties of the Key System, Ltd. to the Key Terminal Railway, Ltd., and it is therefore proposed to enter into a lease similar to that to which reference has been made. Under the terms of this lease all the properties of the Key System, Ltd., except such as are solely used for the transportation of freight, will be leased to the Key Terminal Railway, Ltd. The lease is to be made for a rental of 60% of the net income derived from the intrastate transportation of interurban electric passenger railway business, after the payment of the operating expenses, including the maintenance of the leased lines and the taxes thereon, by the Key Terminal Railway, Ltd. The lease provides that nothing therein contained shall be construed to relieve the lessor of any lawful obligation in respect of the maintenance or operation of the leased lines in the interurban electric passenger service in <sup>the</sup> event the lease is terminated, subject always to the constitutional and statutory rights of the lessor to abandon its property, as provided or permitted by the constitution and laws of the State of California.

The lease further provides that in the event the lessee is unable to finance the necessary additions and betterments to the leased properties as may be required by lawful order of the Railroad Commission or other governmental agency having jurisdiction in the premises, without creating a lien or charge against the leased properties, the lessor upon demand of the lessee will join in the creation of such lien or charge upon the leased properties or such thereof as may be necessary in order to comply with such order.

On November 16, 1934, applicants filed Application No. 19703 for a certificate to operate over the San Francisco-Oakland Bay Bridge and the approval of a lease somewhat similar to the lease filed in this proceeding. Although Application No. 19703, including the request to enter into a lease, is still pending before the Commission, the Commission's approval of the lease filed in this proceeding is not related to the request of applicants for a certificate to operate over the bridge.

Though desirable, it appears that the consolidation of the two properties is not practical at this time. While the execution of the lease is the expedient thing to do at present, it is not a final solution of the transportation service of the two carriers. It may be that when the transportation problem over the bridge is solved there may be need for some other form of corporate structure. The Commission should reserve the right to rescind or modify the authority herein granted.

#### ORDER

Key System, Ltd. and Key Terminal Railway, Ltd., having asked permission to execute a lease similar in form to the lease filed in this proceeding on February 20, 1935, and the Commission

having considered the request of applicants and being of the opinion that such request should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED that Key System, Ltd. and Key Terminal Railway, Ltd. be, and they are hereby, authorized to execute a lease similar in form to the lease filed in this proceeding on February 20, 1935, subject to the right of the Commission to rescind or modify this order.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the date hereof Key Terminal Railway, Ltd. shall file with the Commission a verified copy of the lease executed under the authority herein granted.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective March 1, 1935.

DATED at San Francisco, California, this 25<sup>th</sup> day of February, 1935.

Leon Whittell

W. P. Linn

M. B. Linn

W. H. Linn

Frank R. Linn

Commissioners.