

Decision No. 27363.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of EAST BAY STREET RAILWAYS, LTD., a corporation, for an order authorizing it to abandon certain street railway service and for a Certificate of Public Convenience and Necessity to substitute therefor motor coach service in the County of Alameda, State of California.

ORIGINAL

Application No. 19918.

BY THE COMMISSION:

O R D E R

East Bay Street Railways, Ltd., a corporation, on April 17, 1935, applied for authority to abandon certain street railway service in the city of Oakland, and substitute therefor, motor coach service. The rail line applicant proposes to abandon is now operated along Chestnut Street between Second and Eighth Streets and applicant recites that said track crosses the double track main line of Southern Pacific Company at Chestnut and Seventh Streets and that its rails and crossings are in poor condition, requiring rebuilding and repairing and paving a portion of the street. Applicant further states that the patronage on this line does not justify the necessary expenditure and in the event abandonment of this line is authorized it will substitute a motor coach service to be operated over the following described route:

"From the intersection of 10th and Broadway Streets in the City of Oakland, along Broadway to 8th Street, along 8th Street to Chestnut Street, along Chestnut Street to a point in the vicinity of 2nd Street and Chestnut Street, returning thence over the same route to the point of beginning."

Applicant states that the rate of fare on said motor coach line would be the same as provided in its present tariffs and that the same transfer privileges will be accorded its patrons.

It appears that the city of Oakland does not object to the proposed abandonment and substitution; that this is a matter in which a public hearing is not necessary and that the abandonment should be authorized and applicant granted a certificate for the proposed motor coach operation.

East Bay Street Railways, 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.

IT IS HEREBY ORDERED that East Bay Street Railways, Ltd., is hereby authorized to abandon street car service on Chestnut Street between <sup>Second</sup> ~~Sixteenth~~ and Eighth Streets and to remove its track and appurtenances from said street in the limits defined, provided that coincident with the abandonment of said service applicant establishes the motor coach service, certificate for which is herein granted. 11711

IT IS HEREBY FURTHER ORDERED that a Certificate of Public Convenience and Necessity for motor coach service over the following described route:

"From the intersection of 10th and Broadway Streets in the City of Oakland, along Broadway to 8th Street, along 8th Street to Chestnut Street, along Chestnut Street to a point in the vicinity of 2nd Street and Chestnut Street, returning thence over the same route to the point of beginning,"

be and the same is hereby granted to East Bay Street Railways, Ltd., as a part of its unified and consolidated motor coach system, subject to the following conditions:

- (1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
- (2) Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this Order, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates satisfactory to the Railroad Commission.
- (3) Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this Order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- (5) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
- (6) Applicant is authorized to turn its motor vehicles at termini, either in the intersection of the streets or by operating around a block contiguous to such intersection in either direction and to carry passengers, as traffic regulations of a municipality may require.

For all other purposes, the effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of May, 1935.

Leon A. Williams  
W. B. Quinn  
W. B. Quinn  
Frank H. Quinn  
Commissioners.