

Decision No. 28472

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of East Bay Street Railways, Ltd., a corporation, for a certification of public convenience and necessity to operate motor coach service in the County of Alameda and for an order authorizing it to abandon certain street railway service in said County of Alameda, State of California.

Application No. 20290

BY THE COMMISSION:

ORIGINAL

O R D E R

East Bay Street Railways, Ltd., on December 9, 1935, applied for authority to abandon street car service on Eighth Street and Pine Street between Washington Street and Seventh Street in the City of Oakland, County of Alameda, and asked that it be granted a certificate of public convenience and necessity to operate motor coach service in lieu thereof.

Applicant alleges that the portion of Eighth Street upon which said street railway is operated is to be repaved; that to continue to operate its street railway thereafter would necessitate the reconstruction of its track structure at a large expense; that Eighth Street will be one of the vehicular approaches of the San Francisco - Oakland Bay Bridge; that upon the abandonment of said street railway it proposes to operate motor coaches in lieu thereof; and that public convenience and necessity require the operation of the motor coach service proposed.

The City Council of the City of Oakland, by Resolution No. 3908, C.M.S., dated November 29, 1935, approved the plan of abandoning said street railway and the establishment of motor coach service in lieu thereof.

It appears that this is not a matter in which a public hearing is necessary and that the application should be granted.

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., be and it is hereby authorized to abandon its street car service and remove the tracks and appurtenances upon and along the following route:

From Eighth Street and Washington Street,
along Eighth Street to Pine Street, along
Pine Street to Seventh Street, all in the
City of Oakland, County of Alameda, California,

subject to the following conditions:

- (1) Applicant shall not abandon said street railway service until motor coach service has been inaugurated as hereinafter authorized.
- (2) Applicant shall give not less than five days' notice of said abandonment to the public by posting notices in the cars of said street car line.
- (3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of said abandonment.
- (4) 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

The Railroad Commission Of The State of California Hereby Declares that public convenience and necessity require East Bay Street Railways, Ltd., to establish motor coach service in the City of Oakland and to operate same as part of its unified motor coach service, as authorized in this Commission's Decision No. 27183, dated June 29, 1934, in Application No. 18684, upon and along the following described route:

Between a point in the vicinity of the intersection of Eighth Street and Washington Street, and the intersection of Pine Street and Seventh Street, and operating along Eighth Street and Pine Street, all in the City of Oakland, County of Alameda, California,

subject to the following conditions:

- (1) Applicant shall file its written consent of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof;
- (2) Rates of fare in volume and effect shall be identical with the rates and rules now in effect on said street railway line hereinbefore authorized to be abandoned.
- (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 vehicles 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 street or by operating around a block contiguous to such intersection in either direction and to carry passengers, as traffic regulations of the municipality may require.

The authority herein granted shall become effective on the

date hereof.

Dated at San Francisco, California, this 27th day
of December, 19 35.

Leon A. Whaley
W. A. Cunn

Francis R. DeWitt

Commissioners