

Decision No. 28815.

ORIGINAL

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 Certificate 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 and freight service in said County of Alameda, State of California.

Application No. 20291.

BY THE COMMISSION:

O R D E R

East Bay Street Railways, Ltd., on December 9, 1935, applied for authority to abandon passenger and freight service over its so-called Leona (No. 16) Line in the City of Oakland, and in lieu thereof seeks a certificate of public convenience and necessity for the operation of a passenger motor coach service for said territory; all of which is hereinafter described.

Said Leona street car line has served the territory tributary to Mills College for many years and in the event that the instant application is granted, passenger service will be continued by motor coach.

Applicant alleges that to continue said street car service a large sum of money must be expended to rehabilitate the line; that the expense of operating said street car line is not justified; that said street car service does not adequately meet the needs of applicant's patrons; that there is not sufficient freight business to justify the continued operation of said freight service; and that public convenience and necessity

does not require the continued operation of said street car line or of said freight service or any spur tracks in connection therewith.

Applicant further alleges that the motor coach service hereinafter described will more adequately and conveniently serve the travelling public now using the street cars on said Leona Line; that said motor coach operation will serve a territory now without service; that the rate of fare of said motor coach operation will be the same as provided in the tariff for street railway service between said points; that the patrons of said motor coach service will have the same transfer privileges as enjoyed by the patrons of the present street car line; and that public convenience and necessity require the operation of the motor coach service hereinafter described.

The City Council of the City of Oakland has signified, in writing, that it will not oppose the granting of this application.

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 discontinue:

I. Street car service over its Leona (No. 16 ) Line upon and along the route described as follows:

"From a point in the vicinity of Mountain Boulevard and Griffin Avenue in the City of Oakland, along private right of way to Courtland Avenue, along Courtland Avenue to Ygnacio Avenue, along Ygnacio Avenue and Courtland Avenue to Foothill Boulevard, across Foothill Boulevard and along Private right of way to East 14th Street (at 42nd Avenue), along East 14th Street to 1st Avenue, along 1st Avenue to 12th Street, along 12th Street to Oak Street, along Oak Street to 13th Street, along 13th Street to Jefferson Street, along Jefferson Street to 12th Street, returning thence over the same route to the point of beginning."

II. Freight service upon and along the route described as follows:

"From a point in the vicinity of Mountain Boulevard and Griffin Avenue in the City of Oakland, along private right of way to Courtland Avenue, along Courtland Avenue to Ygnacio Avenue, along Ygnacio Avenue and Courtland Avenue to Foothill Boulevard, across Foothill Boulevard and along private right of way to East 14th Street (at 42nd Avenue), thence over tracks belonging to Southern Pacific Company to a connection with lines of The Western Pacific Railroad Company and of the Southern Pacific Company as reserved to Key System Transit Company, applicant's predecessors, and described in Decision No. 21546 C.R.C."

subject, however, to the following conditions:

- (1) Applicant shall give not less than five (5) days' notice to the public of said rail abandonment by posting notice in the cars operating over said line.
- (2) The abandonment of street car service herein authorized shall be placed in effect concurrently with the establishment of the motor coach service hereinafter authorized and not before.
- (3) Applicant shall, in conformity with the rules of this Commission, cancel all freight rates involved in said abandonment.
- (4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the abandonment of the service herein authorized and of its compliance with the conditions hereof.
- (5) 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  
the operation by East Bay Street Railways, Ltd., of a motor  
coach service for the transportation of passengers, as a part  
of its unified operation, as authorized in Decision No. 27183,  
in Application No. 19502, in the City of Oakland, County of  
Alameda, State of California, described as follows:

"From a point in the vicinity of Knoll Avenue and  
Mountain Boulevard in the City of Oakland, along Mountain  
Boulevard to Calaveras Avenue, along Calaveras Avenue to  
Tompkins Avenue, along Tompkins Avenue to High Street,  
along High Street to East 12th Street, along East 12th  
Street to 46th Avenue, along 46th Avenue to the Southern  
Pacific Melrose Station."

IT IS HEREBY FURTHER ORDERED that a certificate of  
public convenience and necessity for such a service be and the  
same is hereby granted to East Bay Street Railways, Ltd., subject  
to the following conditions:

- (1) Applicant shall file its written acceptance of the  
certificate herein granted within a period of not  
exceeding fifteen (15) days from the date hereof.
- (2) Applicant shall, within a period of not to exceed  
thirty (30) days after the effective date of this  
order, on not less than five (5) days' notice to  
the Commission and the public, amend the fares  
shown in the Zone Boundaries of its passenger  
tariffs, to provide for cancellation of fares  
applicable to the abandonment of street car ser-  
vice, and addition of such fares to be applicable  
to operation by motor coach service as herein  
authorized.
- (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 (5) days' notice to the  
Commission and the public, time schedules cover-  
ing the service herein authorized and in a form  
satisfactory to this Commission.
- (4) Applicant is authorized to turn its motor vehicles  
at termini, either at the intersection of the  
streets or by operating around a block contiguous  
thereto, in either direction, and to carry passen-  
gers, as traffic regulations of the municipality  
may require.

(5) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of this Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

(6) 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 this Commission.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 2nd day of March, 1936.

W B Harris

Leon Whidley

M A Can

W H Blackman

Frank R. Seely

Commissioners.