

ORIGINAL

Decision No. 28674.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of Application of SAN JOSE RAILROADS for authority to abandon a certain line of street railway from St. John and Second Streets, San Jose, to the northerly boundary of the City of San Jose; and application of SAN JOSE RAILROADS for certificate of public convenience and necessity for the operation of a motor coach line from the intersection of First and St. John Streets to the northerly boundary of the City of San Jose.

Application No. 20415.

BY THE COMMISSION:

ORDER

San Jose Railroads, on March 12, 1936, applied for authority to abandon its service on certain of its street railway tracks in the City of San Jose, and for a certificate of public convenience and necessity to substitute a motor coach service operating over approximately the same route. Tracks which applicant proposes to abandon are located on St. John, North Sixth, East St. James, North Eleventh, East Julian and North Seventeenth Streets, and the proposed motor coach service would be in effect an extension of an existing line along St. John, North Sixth, East Julian and North Seventeenth Streets, with a terminal loop at the city limits.

Applicant alleges that the proposed service will be safer, faster and more flexible than that now furnished by rail cars and will result in a reduction in the cost of furnishing transportation.

The application states that there is a general public

sentiment in the City of San Jose in favor of the substitution of motor coach service for street railway cars and that the substitution proposed in this application has been approved by the City Council of the City of San Jose by Ordinance No. 2495, passed February 24, 1936, and effective April 1, 1936.

It appears that this is a matter in which a public hearing is not necessary and that the application for abandonment of railroad service should be granted and a certificate for motor coach operation issued.

San Jose Railroads is hereby placed on 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 San Jose Railroads be and it is hereby authorized to discontinue operation of street railway service on St. John, North Sixth, East St. James, North Eleventh, East Julian and North Seventeenth Streets, and remove its tracks and appurtenances therefrom, subject 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, 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.
- (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 the operation by San Jose Railroads of a motor coach service for the transportation of passengers as a part of its street railway and motor coach operations in the City of San Jose, County of Santa Clara, over and along the following described route:

Commencing at the intersection of First and St. John Streets; thence along St. John Street to Sixth Street; thence northerly along Sixth Street to Julian Street; thence easterly along Julian Street to Seventeenth Street; thence northerly along Seventeenth Street to the northerly boundary of the City of San Jose, terminating in a loop bounded by Seventeenth Street, Rosa Street, Fifteenth Street and Vestal Avenue.

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 San Jose Railroads, 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, 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, supplement its Passenger Tariff No. 9, C.R.C. No. 16, to provide that fares shown therein shall apply in connection with 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 covering 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 passengers, 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 27th day of March, 1936.

W B Lewis
Leon Whipple

Stuart R. Dewey
Commissioners.