

ORIGINAL

Decision No. 29451

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EAST BAY TRANSIT COMPANY, 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 service in said County of Alameda, State of California.

Supplemental
Application No. 19502

BY THE COMMISSION:

NINTH SUPPLEMENTAL ORDER

The East Bay Transit Company has filed a Supplemental Application in the above numbered proceeding, requesting authority to abandon its rail service on Fruitvale Avenue in the City of Oakland and to substitute therefor, a motor coach service, extending said motor coach service northerly from the present terminus of the rail line into a residential district not at present served.

Applicant states that it has been requested by the City of Oakland to make this change of service and the Commission is in receipt of a certified copy of Resolution No. 4850 of the Oakland City Council, approving the application.

The rate of fare proposed is the same as provided in the tariff for street railway service and the patrons of the motor coach service will have the same transfer privileges as enjoyed by the patrons of the present street railway line.

It appears that this is a matter in which a public

hearing is not necessary; that the change proposed by applicant is desirable, and that a certificate for proposed bus operation should be granted.

The East Bay Transit Company 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.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the East Bay Transit Company to operate as a unified and consolidated portion of its transportation system, a motor coach service in the City of Oakland, over the following described route:

From the vicinity of 31st Avenue and East 10th Street, along East 10th Street to Fruitvale Avenue, along Fruitvale Avenue to Whittle Avenue, along Whittle Avenue to Tiffin Road, along Tiffin Road to Lyman Road, along Lyman Road to Fruitvale Avenue, and returning thence to the point of beginning.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the above mentioned service be and the same is hereby granted to East Bay Transit Company, subject to the following conditions:

- (1) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.

- (2) The rate of fare for the service herein authorized shall be as shown in the local and joint passenger tariff No. 402-C CRC No. 17 of the East Bay Street Railways, Ltd., adopted by the East Bay Transit Company, supplements thereto or reissues thereof.
- (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 this Commission.
- (4) Applicant is authorized to turn its motor coaches at termini or intermediate points either at the intersection of the streets or by operating around the block contiguous to such intersection in either direction, and to carry passengers as traffic regulations of the municipality 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 obtained.
- (6) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Commission.

IT IS HEREBY FURTHER ORDERED that East Bay Transit Company is hereby authorized to abandon its street railway service from the vicinity of 31st Avenue and East 10th Street in the City of Oakland, along East 10th Street to Fruitvale Avenue and along Fruitvale Avenue to Hopkins Street, concurrently with the establishment of the motor coach service herein authorized, and to remove its tracks and appurtenances from said 10th Street and Fruitvale Avenue.

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

Dated at San Francisco, California, this 11th
day of January, 1937.

William H. ...

Leon ...

Frank ...

_____ Commissioners.