

Decision No. 28557  
47557

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

ORIGINAL

BY THE COMMISSION:

TWELFTH SUPPLEMENTAL ORDER

East Bay Transit Company, on January 4, 1937, filed its supplemental application asking for a certificate of public convenience and necessity to operate, as a unified and consolidated portion of its transportation system, extension to its motor coach service described as follows:

- (a) Between the intersection of Hollis Street and Yerba Buena Avenue, Town of Emeryville and the Ashby Avenue terminal at the intersection of San Pablo Avenue and Ashby Avenue, City of Berkeley, and operating along Hollis Street in the Town of Emeryville to Green Street, along Green Street to Folger Avenue in the City of Berkeley, along Folger Avenue to 7th Street, along 7th Street to Ashby Avenue and along Ashby Avenue to Ashby Avenue terminal. (As amended in writing by applicant and filed January 20, 1937.)
- (b) Along 14th Street between Adeline Street and Washington Street, in the City of Oakland.

Applicant further requests permission to abandon motor coach service along Adeline Street between 14th Street and 7th Street in the City of Oakland, and to abandon street car service and remove tracks on Park Avenue, between San Pablo Avenue and Halleck Street, in the Town of Emeryville.

Applicant alleges that said service changes have been

requested by the Town of Emeryville and are for the purpose of providing a service from the downtown district of Oakland to the industrial area in Emeryville and furthermore provide the industrial area of Emeryville with a better connection with its general transportation system throughout the East Bay area, and that public convenience and necessity require the operation of said motor coach service.

The cities involved have signified in writing that they do not oppose the granting of this supplemental application with operation along routes hereinbefore described.

It appears that this is not a matter in which a public hearing is necessary and that public convenience and necessity require the granting of this supplemental application.

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 as authorized in this Commission's Decision No. 27183, dated June 29, 1934, motor coach service in the Cities of Oakland and Berkeley and the Town of Emeryville, County of Alameda, over the following described routes:

- (a) Between the intersection of Hollis Street and Yerba Buena Avenue, in the Town of Emeryville and the Ashby Avenue terminal at the intersection of San Pablo Avenue and Ashby Avenue in the City of Berkeley and operating along Hollis

Street, in the Town of Emeryville, to Green Street, along Green Street to Folger Avenue, in the City of Berkeley, along Folger Avenue to 7th Street, along 7th Street to Ashby Avenue and along Ashby Avenue to the Ashby Avenue terminal.

- (b) Along 14th Street between Adeline Street and Washington Street, in the City of Oakland.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such 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 one day's 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:-

- (a) to abandon its street car service and remove tracks

and appurtenances thereto on Park Avenue, between San Pablo Avenue and Halleck Street, in the Town of Emeryville.

(b) to abandon motor coach service on Adeline Street between 14th Street and 7th Street in the City of Oakland, subject to the following conditions:

- (1) Applicant shall give not less than ten (10) days' notice to the public of said abandonment of service by posting notices in its street cars and motor coaches.
- (2) Applicant shall, within thirty (30) days thereafter, notify the Commission, in writing, of the abandonment of service authorized herein and of its compliance with the conditions hereof.
- (3) The authorization herein granted shall lapse and become void if not exercised within one year from the date hereof, unless further time is granted by subsequent order.

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

Dated at San Francisco, California, this 19<sup>th</sup> day  
of ~~February~~ <sup>February</sup>, 1937.

William H. ...  
Leon ...  
Oran ...  
Ray ...  
Commissioners.