

Decision No. 20896

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 connection with its street railway lines in the Counties of Alameda and Contra Costa, State of California.

Supplemental Application
No. 19502**ORIGINAL**

In the Matter of Application of SOUTHERN PACIFIC COMPANY for authority to abandon its motor coach service between Seventh and Oak Streets and Twentieth and Broadway, in Oakland, California.

Application No. 20896

McCarthy, Richards & Carlson, by Frank S. Richards and Thomas G. McCarthy, for East Bay Transit Company, applicant.

R. S. Meyers for Southern Pacific Company, applicant.

Homer W. Buckley, Assistant City Attorney, for the City of Oakland.

BY THE COMMISSION:

O P I N I O N

The two above entitled proceedings deal with local bus transportation in the City of Oakland between 7th and Oak Streets on the south, and 20th Street and Broadway on the north, a distance of a little over one mile.

A public hearing was conducted in these proceedings at Oakland, February 2, 1937, by Examiner Hunter, at which time all

parties stipulated that the matters should be consolidated for the purpose of taking testimony.

Pursuant to the Commission's Order in its Decision No. 20429, dated November 7, 1928, in Case No. 1536, and supplemental decisions thereto, Southern Pacific Company has operated a motor bus service between a connection with its 7th Street electric line at 7th and Oak Streets and a northerly terminal in the business section of the City of Oakland at 20th Street and Broadway. This service has been provided through the operation of a single bus by the Pacific Greyhound Lines, Inc., under a contractual arrangement with Southern Pacific Company. This bus operation is conducted between the hours of 6:30 A. M. and 6:30 P. M., daily, except Sundays and holidays, on approximately a 20-minute headway. The primary purpose of the service is to offer an uptown transfer for the local patrons of Southern Pacific Company's 7th Street line to the east of the transfer point.

The bus operation is part of Southern Pacific Company's local service in Oakland with a fare of 7 cents. In other words, passengers boarding the bus are offered a free transfer to the 7th Street local line within the limits of the 7-cent fare zone, east of Oak Street; likewise, in the reverse direction the local rail passengers from the east are offered a transfer to this bus line. In Application No. 20896 Southern Pacific Company seeks authority to discontinue this bus operation.

In Supplemental Application No. 19502 of the East Bay Transit Company, authority is sought to initiate a bus service similar to that now offered by Southern Pacific Company to commence operation coincident with the abandonment of service by Southern Pacific Company. This proposed operation will be identical with that now offered by Southern Pacific Company with two exceptions: first, the transfer privilege will be expanded, and secondly, there will be

a slight increase in fares.

With respect to transfer privileges, the patrons on the bus line under the East Bay Transit Company's plan will also be afforded a transfer to or from the other connecting or intersecting local lines of this carrier. It should be pointed out, however, that transfer privileges to patrons originating at or destined to points on Southern Pacific Company's local lines are not enlarged.

With respect to the change in fares, under present operation the fare is 7 cents. Under the proposed operation by the East Bay Transit Company the fare will be 7 1/7 cents by token or 10 cents cash. The representative of the City of Oakland stated that the only objection the City had to the granting of these applications was directed to an increase in fares. In this respect, if the applications are to be granted, there is nothing in this record which would justify the Commission in establishing a different fare structure on the proposed operation by the East Bay Transit Company than exists on the remainder of its system. Furthermore the extended transfer privilege is an offsetting factor to the increase in fares.

It appears from the record that the bus operation in question has never paid more than the direct out-of-pocket cost of providing the service and there seems to be little likelihood that this situation will be changed in the future.

A careful review of the record clearly shows that public convenience and necessity require the continued operation of a motor coach line between the points herein involved and that the application should be granted, and the following Order will so provide.

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.

O R D E R

A public hearing having been held and the matter being under submission, IT IS HEREBY ORDERED THAT:

I

Permission and authority are hereby granted to Southern Pacific Company to abandon its motor coach service operating between 7th and Oak Streets, and Broadway and 20th Street, all within the City of Oakland, County of Alameda, as authorized by this Commission in Decision No. 20429 and supplemental decisions thereto, subject, however, to the following conditions:

- (1) Applicant shall abandon said service concurrently with the establishment of service by East Bay Transit Company as hereinafter authorized.
- (2) Applicant shall cancel in conformity with the rules of this Commission, all passenger rate tariffs and time schedules between said points.
- (3) Applicant shall, within thirty (30) days thereafter, notify this Commission in writing, of the abandonment of the passenger service herein authorized and of its compliance with the conditions hereof.

II

A certificate of public convenience and necessity therefor, be and the same is hereby granted to East Bay Transit Company, to inaugurate motor coach service and to operate the same as a part of its unified motor coach service, as authorized in this Commission's Decision No. 27183, dated June 29, 1934, in the City of Oakland, County of Alameda, upon a route described as follows:

Beginning at 7th and Oak Streets, west on 7th Street to Franklin Street, north on Franklin Street to 19th Street, west on 19th Street to Broadway and north on Broadway to 20th Street; thence east on 20th Street to Franklin Street; thence south on Franklin Street to 9th Street; thence east on 9th Street to Oak Street;

thence south on Oak Street to the point of beginning.

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 date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not exceeding thirty (30) days from the effective date hereof, and concurrently with the abandonment of service by Southern Pacific Company as hereinbefore authorized.
- (3) The rate of fare for the service herein authorized shall be as shown in the local and joint passenger tariff No. 402-C, C.R.C. No. 17 of the East Bay Railways, Ltd., adopted by the East Bay Transit Company, supplements thereto or reissues thereof.
- (4) Applicant shall file in triplicate and concurrently make effective on not less than five (5) days' notice to the Railroad Commission and to the public, a joint tariff or tariffs with Southern Pacific Company, constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect, shall be identical with the rates and rules shown in Paragraph VIII of Supplemental Application No. 19502, filed November 27, 1936, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Commission.
- (5) 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 Railroad Commission and the public, time schedules covering the service herein authorized. Said time schedules shall be so constructed that applicant's motor coaches on said route will make connections with Southern Pacific Company's 7th Street electric train service at its Oak Street station for the convenient and direct transfer of passengers originating from or destined to points east of said Oak Street station. Said time tables shall be substantially the same as the time tables in effect on the Southern Pacific Company's motor coach line hereinbefore authorized to be abandoned.
- (6) Applicant is authorized to turn its motor vehicles at termini, either in the intersection of the streets 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.
- (7) 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 obtained.

- (8) 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 Railroad Commission.

For all other purposes the effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 1st day
of ~~February~~ ^{March}, 1937.

William H. ...
Leon ...
Frank ...
Robert ...
Ray & ...
Commissioners.