

Decision No. 29659.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application  
of KEY SYSTEM, a corporation, for  
a Certificate of Public Convenience  
and Necessity.

Application No. 20582.

**ORIGINAL**APPEARANCES

McCarthy, Richards & Carlson, by Frank S. Richards,  
for applicant.  
F. B. Fernhoff, for the City of Oakland.  
Thomas M. Carlson, for the City of Richmond.  
H. W. Patterson, for T. H. Delap, for the City of El Cerrito.  
C. W. White, for the City of Hayward.  
J. L. Poe, for the City of San Leandro.  
H. C. Lucas and J. D. Maatta, for Pacific Greyhound Lines,  
interested party.  
Dion Holm, for the City and County of San Francisco.  
Fred D. Kaiser, for Oakland Real Estate Board.  
Ernest A. Allen, for Mills College, Oakland.  
W. A. Luetge, for German Old People's Home, Oakland.  
Andrew Giambroni, for Dimond Merchants Association, Oakland.  
Fred O. Dunn, for Hopkins Street Improvement Club, Oakland.  
Thomas McGuire, for Acorn Club, Incorporated, Oakland.  
George W. Gaertner, for Chevrolet Park, Eastmont and Millsmont.  
Daniel McCarthy, for American Legion Post 47, East Oakland.  
George C. Fuller, for Hayward and West Hayward Improvement Club.  
Hazel E. Jacobsen, for Federated Clubs of South Alameda County.  
Charles X. Newman, for Lake Merritt Boosters Club.  
Thomas F. Day, for the City of Alameda.  
L. A. Gifford, for Allendale-Hopkins Business Men's Association.  
C. A. Anderson, for Ashland Improvement Club.  
D. Thomson, for Tennyson Improvement Club, Hayward.  
Arvilla L. Gloden, for Council of East Bay Women's Clubs, Inc.  
C. A. Steiner, for Castro Valley Chamber of Commerce.  
E. L. Macabee, for Hayward Chamber of Commerce.  
A. V. Lucas, for Castro Valley Improvement Club.  
I. R. Dains and L. V. Newton, for Market Street Railway,  
interested party.  
E. J. Foulds, for Interurban Electric Railway Company,  
interested party.

BY THE COMMISSION:

OPINION

In the above entitled application the Key System seeks a

certificate of public convenience and necessity to provide motor coach service between San Francisco and the East Bay district by operating over three routes, through certain of the East Bay cities, which converge at the east approach of the San Francisco-Oakland Bay Bridge, and from that point the proposed operations are over the Bridge to the passenger terminal of The Atchison, Topeka and Santa Fe Railway Company located near 4th and Market Streets in San Francisco, which is now under construction.

Public hearings were conducted on this application by Examiner Hunter at Oakland on March 2nd, at Richmond on March 3rd, and at Hayward on March 4th, 1937. At the latter hearing the matter was taken under submission subject to the filing of concurrent opening briefs within five days, and concurrent reply briefs within five days thereafter.

Throughout this Opinion reference will be made to what is known as the "reserved territory." This is a district encompassed in a boundary delineated on Exhibit "E," attached to and made a part of the agreements dated March 6, 1936, between the California Toll Bridge Authority and the Key System, and between the California Toll Bridge Authority and the Interurban Electric Railway Company.<sup>(1)</sup> In a general way this so-called "reserved territory" includes the City and County of San Francisco, and all the East Bay cities and intervening county territory between Hayward on the south and Richmond on the north. The Key System and Southern Pacific Company now provide interurban service between

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(1) These agreements were approved by this Commission in its Decision No. 28671 dated March 23, 1936, in Applications Nos. 19703 and 19704.

San Francisco and the East Bay cities within this "reserved territory" and enjoy the greater portion of this class of traffic. Each of these carriers operates interurban trains through the East Bay cities in connection with boats across the San Francisco Bay. Development, primarily residential, has now taken place beyond the limits of these rail systems.

Applicant Key System seeks authority herein to provide additional interurban service between San Francisco and certain portions of the developed territory of the East Bay district lying 3,000 feet or more from the interurban lines of transportation now in service, through the operation of three bus lines, each of which involves crossing the new San Francisco-Oakland Bay Bridge.

These lines are:

- Route No. 1. Between San Francisco and Richmond. Service in the East Bay section to be restricted to that portion between the Alameda-Contra Costa line at San Pablo Avenue and the end of the line at Richmond.
- Route No. 2. Between San Francisco and East Oakland. Service in the East Bay section to be restricted to that portion between Hopkins Street and 14th Avenue and the end of the line at Trenor Street and Seminary Avenue (Mills College), all in the City of Oakland.
- Route No. 3. Between San Francisco and Hayward. Service in the East Bay section to be restricted to that portion between 57th Avenue and San Lorenzo Street in Oakland and the end of the line at "B" and Castro Streets in the City of Hayward.

With respect to fares and service on the lines under consideration, applicant proposes an initial operation with the following plan:

Route Number	Direction	Service		Fare
		Half-hour Headway	One-hour Headway	
1 Richmond	From San Francisco	7:03 AM - 8:03 AM 3:03 PM - 6:03 PM	8:03 AM - 3:03 PM 6:03 PM - 10:03 PM	\$ 0.30
	From Richmond	6:00 AM - 9:00 AM 4:00 PM - 5:00 PM	9:00 AM - 4:00 PM 5:00 PM - 11:00 PM	.30
2 East Oakland	From San Francisco	6:43 AM - 7:43 AM 3:43 PM - 5:43 PM	7:43 AM - 3:43 PM 5:43 PM - 9:43 PM	.30
	From Mills College	6:25 AM - 8:25 AM 4:25 PM - 5:25 PM	8:25 AM - 4:25 PM 5:25 PM - 10:25 PM	.30
3 Hayward	From San Francisco	3:23 PM - 6:23 PM	7:23 AM - 3:23 PM 6:23 PM - 9:23 PM	.40
	From Hayward	6:25 AM - 8:25 AM 4:25 PM - 5:25 PM	8:25 AM - 4:25 PM 5:25 PM - 10:25 PM	.40

No local or commute service will be offered under applicant's plan of operation at the outset. While there is some testimony in the record with respect to the need for commute service, it seemed to be the consensus of opinion of all witnesses who made reference to this subject that from their standpoint it would be desirable to initiate the service as proposed as it appeared to be the best they could get at this time and it would be an added service to the respective districts affected; this with the understanding that the problem of taking care of commute traffic could be considered later after the requirements are better known.

The testimony relating to probable revenue and expenses which would obtain from the proposed operations surrounds applicant's Exhibit No. 29, which is the source of the following tabulation:

REVENUE ESTIMATES:

<u>Plan No. 1.</u>		Rides		Traffic	Revenue
<u>Route No.</u>	<u>East Bay District</u>	<u>per Capita</u>	<u>Rates</u>	<u>first year</u>	<u>first year</u>
1.	Richmond	7.0	\$0.30	167,741	\$ 50,322
2.	East Oakland	7.5	.30	232,440	69,732
3.	Hayward-San Leandro	7.5	.30	104,670	31,401
4.	Hayward	7.0	.40	38,710	15,484
Total				543,561	\$166,939
Less Bridge Passenger Tolls @ 5¢					27,178
Available for Operating Expenses and Return					<u>\$139,761</u>

<u>Plan No. 2.</u>		Load		Traffic	Revenue
<u>Route No.</u>	<u>East Bay District</u>	<u>Factor</u>		<u>first year</u>	<u>first year</u>
1.	Richmond	30%		187,764	\$ 56,329
2.	East Oakland	40%		250,352	75,105
3.	Hayward	30%		187,764	61,492
Total				625,880	\$192,926
Less Bridge Passenger Tolls @ 5¢					31,294
Available for Operating Expenses and Return					<u>\$161,632</u>

EXPENSE ESTIMATE:

Operator's wages - 43,800 hours @ \$0.75	Total
Mileage Costs - 950,000 coach miles @ \$0.07*	\$ 32,850
Bridge Tolls - Coach and Driver 49,330 @ \$0.75	66,500
Rental - 10 Coaches @ \$180 each per month	36,998
Taxes, Motor Vehicle License, and Weight Tax	21,600
	<u>2,022</u>
Total Operating Expense	<u>\$159,970**</u>

\* Actual for this type of coach for year 1936; including fuel, lubricants, service, repairs, tires, and injuries and damages. Does not include general overheads not affected by addition of this service.

\*\* Exclusive of terminal rental in San Francisco.

OPERATING RESULTS:

<u>Under Plan Number</u>	<u>Total Revenue</u>	<u>Total Expense</u>	<u>Operating Profit or Loss</u>
1	\$139,761	\$159,970	\$20,209 Loss
2	161,632	\$159,970	\$ 1,662 Profit

It should be pointed out that the above estimates make no

allowance for any overhead charges, also applicant plans on leasing the motor coach equipment from its parent company - Railway Equipment & Realty Company, Ltd., therefore no investment in equipment is shown in this estimate.

The greater portion of this record is confined to testimony and evidence by many witnesses and resolutions from public bodies and civic organizations urging the granting of the application. In fact there is no testimony or evidence opposing the granting of this application. Upon this record but one logical conclusion can be reached and that is that the application should be granted. Having reached this conclusion, we will now turn to the matter of considering the terms and conditions which should surround the Order in the light of the record.

Southern Pacific Company and its subsidiary Interurban Electric Railway Company contend that the Order should contain a condition to the effect that the Interurban Electric Railway Company should be afforded the privilege of joining the Key System in providing this service, either at the outset or by purchasing a joint interest in the motor coach lines involved herein at any time within five years from the time service is inaugurated. The terms and conditions surrounding this joint operation are set forth by its sponsors. This plan of joint operation is not acceptable to the Key System, in fact its president has indicated that it will not accept a certificate containing such a condition. A number of witnesses, both public and representatives of civic organizations, stated that in their opinion it would be adverse to public interest to divide the responsibility between the two carriers. Other than the verbal request of Interurban Electric Railway Company for joint right to participate in the proposed motor coach operation, the

Commission has nothing before it from this carrier in the way of an application indicating its desire to serve the districts involved with any new form of transportation.

It is our conclusion from this record that we should not attach as a condition to the granting of this application a provision that applicant be required to grant Interurban Electric Railway Company joint rights in the motor coach operations involved herein.

Another question that presented itself for determination was the matter of extending the proposed easterly terminal of Route No. 2 from Hopkins and Courtland Street to Seminary Avenue and Trenor Street in the City of Oakland, a distance of a little less than one mile. This extension was urged by the City of Oakland in the interest of providing transportation to the developed residential section adjacent to the proposed extension, as well as to provide better service to Mills College, in that the line as proposed by applicant ends at the Richards Gate at Hopkins and Courtland Streets and the extension would carry it to the Wetmore Gate on Seminary Avenue near Trenor Street, which is the main entrance, thus affording better transportation to the College. Applicant stated that the primary reason for selecting the terminal of this line at the Richards Gate was to provide at least 3,000 feet between the proposed new motor coach line and Southern Pacific Company's Melrose line, which is an electric interurban line located parallel to and about 400 feet south of Foothill Boulevard in this district.

Applicant modified its original application with the understanding that it would be in the way of an alternative plan for the Commission's consideration, to the effect that it requested authority to extend its proposed No. 2 line from the Richards Gate

to the Wetmore Gate of Mills College, as proposed by the City of Oakland, via Hopkins Street, 55th Avenue, Camden Street, and Seminary Avenue. Many witnesses, including representatives from Mills College, testified that the district is in need of and reasonably requires the proposed public transportation and that they would avail themselves of this service if it were provided. Southern Pacific Company and Interurban Electric Railway Company, in their brief under date of March 8, 1937, contend that if the No. 2 line is extended as proposed, it will attract traffic which now patronizes the company's 7th Street interurban electric line, particularly that boarding and leaving the trains at the Seminary Avenue station located at Seminary Avenue and Bond Street. It is pointed out in this brief that the East Bay Transit Company now operates a local bus line through the district which would be served by the proposed extension and carries many passengers to and from Southern Pacific Company's 7th Street line. Therefore, it takes the position that the district is now reasonably served with interurban transportation, although the plan requires the payment of two fares.

It is further alleged in this brief that if the Key System is allowed to extend its No. 2 line as proposed, Southern Pacific Company will, in the main, continue to enjoy the less profitable commute traffic from this district and lose the more remunerative one-way and round-trip travel.

It appears that at the nearest point the distance between the proposed extension and the Southern Pacific Company's 7th Street line is 2,200 feet on an air line. The highway distance between these two lines, however, is about 2,500 feet.

As this is the first experiment with strictly interurban bus operation over the Bridge, it does not seem desirable to attach



any restrictive conditions to the Order granting the certificate, particularly those which might now be considered as border-line matters. Experience in the future, however, might well justify such restrictions in other cases.

We wish to announce at this time that the Commission will keep in close touch with the entire interurban transportation problem, particularly with respect to the division of territory between the carriers. With this understanding and upon this record we will grant the Key System the right to extend its No. 2 line to Seminary Avenue and Trenor Street, as now proposed, without restrictions. If it becomes necessary for applicant Key System to secure further consent from the California Toll Bridge Authority in connection with this extended operation, that will not be a matter for us to determine.

Although it is not an issue at this time, it seems appropriate to mention the fact that under unified interurban operation of the Southern Pacific Company and Key System, which has heretofore been urged by this Commission, questions of division of territory would disappear.

The representative of the City Attorney's office of the City and County of San Francisco stated, with respect to a specific routing of applicant's buses in San Francisco, that it would be necessary for it to secure authority from the Police Commission before such operation could be undertaken. Applicant advises, in writing, that the Police Commission has authorized a somewhat different routing to the new Santa Fe terminal in San Francisco from that originally proposed, and that the revised routing is acceptable to it. The Order will, therefore, be based upon this revised routing. Applicant is now conducting negotiations with The Atchison, Topeka and Santa Fe Railway Company for joint usage rights in its new terminal

fronting on 4th Street, between Market and Mission Streets, in San Francisco, when completed. Pending the time this terminal is completed, it proposes to load and unload from the curb along 4th Street to the south of Market Street.

Market Street Railway Company takes the position that applicant's motor coach terminal in San Francisco should be at or near the site of the proposed San Francisco terminal for the rail lines operated over the San Francisco-Oakland Bay Bridge, to be located near First and Mission Streets (commonly known as Plan X Station). The street railway company contends that the traffic now flowing along 4th Street between Market and Mission Streets has reached the point of saturation to the extent that the company now experiences great difficulty in getting its cars over the 4th Street line to the south of Market, particularly during times of peak travel in the mornings and evenings, and if motor coach operation is added to this already heavy traffic, it will result in further delay on this street car line which is one of the main lines to the Southern Pacific Company's station at 3rd and Townsend Streets, carrying large numbers of commuters.

It is apparent from this record that this traffic problem is acute and it is hoped that the proper officials of the City will be able to improve the traffic conditions in some manner and make possible the admission of applicant's buses on this street without undue interference with the street car operation and other traffic.

Upon this record we cannot deny applicant the right to operate over the route it proposes in San Francisco, particularly in view of the fact that it has secured from the City a permit to operate over this line. If experience shows that this terminal

should be relocated to the site of the San Francisco terminal of the interurban rail operation over the Bridge (Plan X), as proposed by a representative of the Market Street Railway Company, or some other location, such a change can be made at a later date.

The representative of the Pacific Greyhound Lines takes the position that his company now has certain rights to perform local service between San Francisco and the East Bay cities, and has for a number of years actually performed such local service. (2) Furthermore, that if it were not for the said agreements between the Toll Bridge Authority and the Key System, and the Toll Bridge Authority and the Interurban Electric Railway Company, to which it was not a party in either case, it could now provide certain local transportation between San Francisco and the East Bay district, particularly that between San Francisco and both the Richmond and Hayward districts. While the Greyhound is not opposing the granting of this application, it contends that it should not be denied the right to continue its present operations. The Greyhound's right to operate local service between San Francisco and the East Bay cities via the San Francisco-Oakland Bay Bridge is

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(2) The Greyhound's regular daily local service between San Francisco and Hayward is shown in its Exhibit No. 36 as follows:

Eastbound schedules - 9 daily  
Westbound schedules - 10 "

In addition there are seven schedules daily in each direction between San Francisco and North Hayward (Castro Valley).

The Greyhound's regular daily local service between San Francisco and Richmond is shown on its Exhibit No. 36 as follows:

Eastbound schedules - 25 daily  
Westbound schedules - 20 "

With 4 additional schedules via San Pablo and McDonald Avenue.

restricted to operations with equipment used primarily in through service.<sup>(3)</sup> There is considerable testimony in the record to the effect that this carrier cannot perform adequate local service under its through plan of operation due to the fact that the schedules are infrequent and patrons cannot be assured that they can be accommodated as the buses used on long runs may reach the "reserved territory" with no seats available. Likewise, it would not be an economical method of operation for the Greyhound to fill its through buses with local passengers and continue on beyond the "reserved territory" with many empty seats as a result of local passengers vacating them within this area.

Under the conditions it is the Commission's conclusion that the granting of this application will not of itself result in an impairment of the Pacific Greyhound Lines' rights but that public convenience and necessity dictate that the local traffic travelling within the "reserved territory" is entitled to better service than can be afforded by the use of equipment used primarily in through operation.

The record shows that the Key System has applied to the Toll Bridge Authority to operate its buses over the San Francisco-Oakland Bay Bridge, as proposed in this application, and has received such authority.

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(3) From Decision No. 29587, dated March 8, 1937, in Application No. 19743.

Having heretofore announced that this application should be granted upon this record, and having disposed of the various phases of the record, we will now take up the matter of an appropriate order.

Key System 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

Public hearings having been held and the matter being now ready for decision,

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the operation by Key System, a corporation, of an automotive stage passenger service for the transportation of passengers between and serving the following named termini, except as hereinafter specifically restricted and limited, over the following described routes:

Route No. 1. Between San Francisco and Richmond:

Beginning at the intersection of 6th Street and MacDonald Avenue in the City of Richmond, Contra Costa County, along MacDonald Avenue to San Pablo Avenue, along San Pablo Avenue to University Avenue; in the City of Berkeley, Alameda County, along University Avenue to the East Shore approach to San Francisco-Oakland Bay Bridge, along said East Shore approach and San Francisco-Oakland Bay Bridge to intersection of truck ramp with Harrison Street, City and County of San Francisco, along Harrison Street to 4th Street, along 4th Street to Santa Fe Terminal (located on

4th Street between Market Street and Mission Street), thence returning along 4th Street to Folsom Street, along Folsom Street to Essex Street, along Essex Street to said truck ramp, and returning to the point of beginning via the same route.\*

Route No. 2. Between San Francisco and East Oakland:

Beginning at Wetmore Gate of Mills College at the intersection of Trenor and Seminary Avenues, City of Oakland, Alameda County, thence along Seminary Avenue to Camden Street, along Camden Street to 55th Avenue, along 55th Avenue to Hopkins Street, along Hopkins Street to Excelsior Avenue, along Excelsior Avenue to Lake Park Avenue, along Lake Park Avenue to Santa Clara Avenue, along Santa Clara Avenue to Fairmount Avenue, along Fairmount Avenue to Moss Avenue, along Moss Avenue to 38th Street, along 38th Street to Central Oakland approach to the San Francisco-Oakland Bay Bridge, thence along said approach and San Francisco-Oakland Bay Bridge to intersection of truck ramp with Harrison Street, City and County of San Francisco, along Harrison Street to 4th Street, along 4th Street to Santa Fe Terminal (located on 4th Street between Market Street and Mission Street), thence returning along 4th Street to Folsom Street, along Folsom Street to Essex Street, along Essex Street to said truck ramp, and returning to the point of beginning via the same route.\*

Route No. 3. Between San Francisco and Hayward:

Beginning at the terminal of East Bay Transit Company in the vicinity of Pinedale Court and Castro Street, City of Hayward, Alameda County, thence along Castro Street to East 14th Street, along East 14th Street to Davis Street in the City of San Leandro, Alameda County, along Davis Street to San Leandro Street, along San Leandro Street to 105th Avenue, in the City of Oakland, Alameda County, along 105th Avenue to San Leandro Street, along San Leandro Street to Fruitvale Avenue, along Fruitvale Avenue to East 12th Street, along East 12th Street to 14th Avenue, along 14th Avenue to East 8th Street, along East 8th Street to Cypress Street, along Cypress Street and Cypress Street approach to San Francisco-Oakland Bay Bridge, thence along said approach and San Francisco-Oakland Bay Bridge to intersection of truck ramp with Harrison Street, City and County of San Francisco, along Harrison Street to 4th Street, along 4th Street to Santa Fe Terminal (located on 4th Street between Market Street and Mission Street), thence returning along 4th Street to Folsom Street, along Folsom Street to Essex Street, along Essex Street to said truck ramp, and returning to point of beginning via the same route.\*

\* Provided, however, that pending the completion of the new Santa Fe Terminal in San Francisco, applicant's temporary routing in the City and County of San Francisco on all three routes will be as follows:

Over San Francisco-Oakland Bay Bridge to intersection of truck ramp with Harrison Street, City and County of San Francisco, along Harrison Street to 5th Street, along 5th Street to Mission Street, along Mission Street to 4th Street, thence returning along 4th Street to Folsom Street, along Folsom Street to Essex Street, along Essex Street to said truck ramp, and returning via the San Francisco-Oakland Bay Bridge.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service is hereby granted to Key System, subject to the following conditions:

- (1) No passengers shall be picked up or discharged on the various lines between the following respective points:

Route No. 1. The county line between Alameda County and Contra Costa County, on San Pablo Avenue, on the one hand, and points in San Francisco on the other hand.

Route No. 2. The intersection of 14th Avenue and Hopkins Street, in the City of Oakland, Alameda County, on the one hand, and San Francisco on the other hand.

Route No. 3. The intersection of 57th Avenue and San Leandro Street, in the City of Oakland, Alameda County, on the one hand, and San Francisco on the other hand.

- (2) 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.
- (3) Applicant shall commence the service within a period of not to exceed ninety (90) days from the effective date hereof, and shall file, in triplicate, and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and the public, a tariff or tariffs 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 on Exhibit "C" attached to and made a part of Amendment to Application No. 20582, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission; provided, however, that with respect to Route No. 2 the fare

(3) Cont'd.

of thirty (30) cents will apply between San Francisco and the East Bay Terminal at Trenor and Seminary Avenues, Oakland.

- (4) 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 more than five (5) days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission,
- (5) 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 municipalities affected may require.
- (6) 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.
- (7) 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 15<sup>th</sup> day of April, 1937.

William H. Hall  
Leon A. White  
Frank R. Devereux  
Raymond A. Kelly  
Commissioners.