

Decision No. 30836.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of EAST BAY  
TRANSIT COMPANY, a corporation, for a Certifi-  
cate of Public Convenience and Necessity to  
operate a motor coach service in the County  
of Alameda, State of California, and for an  
order authorizing it to discontinue certain  
motor coach service in said county.

Application No.  
19502

MCCARTHEY, RICHARDS AND CARLSON, By Frank S. Richards,  
for Applicant.

ALBERT L. POE, City Attorney, for the City of San Leandro.

F. S. ROSE, JR., in propria persona.

MRS. ELIZABETE NICHOLS, in propria persona.

W. H. GREB, in propria persona.

MRS. PUMPEREY, in propria persona.

MRS. W. S. MOLE, in propria persona.

MRS. JULIA McSWEENEY, in propria persona.

JULIUS DOERMANN, in propria persona.

W. J. GANNON, in propria persona.

W. C. NOED, in propria persona.

BY THE COMMISSION:

TWENTY-SECOND SUPPLEMENTAL  
OPINION AND ORDER

In this supplemental application authority is sought  
to make certain changes in routing of applicant's Motor Coach  
Lines Nos. 55 and 80, within the City of San Leandro.

A public hearing was conducted in this matter by  
Examiner Hunter, at San Leandro, February 23, 1938.

Applicant operates a number of motor coach lines through  
portions of the City of San Leandro, as part of its general trans-  
portation system, two of such lines being Nos. 55 and 80. These  
lines serve entirely different districts, therefore there is in-  
volved in this supplemental application two separate matters for  
determination. Although the two proposed changes were heard on  
a common record, each will be disposed of in turn upon the record  
pertaining thereto.

PROPOSED CHANGE IN LINE NO. 55:

The northerly terminus of Line No. 55 is at Congress and Ygnacio Avenues, where it connects with applicant's No. 7 street car line. The southerly terminus of the line is at Estudillo Avenue and East 14th Street, in San Leandro. For the major portion this line is along Foothill Boulevard.

The change proposed in this application consists of a revision of the loop in San Leandro. As the operation now exists, this loop is along the following streets:

Hollywood Boulevard, Mitchell Avenue, Dutton Avenue, Bancroft Avenue, Estudillo Avenue, East 14th Street, Dutton Avenue, Dowling Boulevard, to Mitchell Avenue.

The proposed rerouting is along the following line:

Hollywood Boulevard, Foothill Boulevard, Diehl Avenue, Dutton Avenue, Bancroft Avenue, Haas Avenue, East 14th Street, Dutton Avenue to Diehl Avenue.

This proposed re-routing in San Leandro will provide service to a new and well-developed residential section adjacent to Haas Avenue. The plan does, however, involve discontinuance of service along Estudillo Avenue which traverses a well-developed section. As a substitute for the Estudillo Avenue service, however, applicant proposes to re-route Line No. 80 along this street.

This proposed change was requested by the City of San Leandro, as evidenced by Exhibit No. 3.<sup>(1)</sup>

The evidence shows that the present extensive loop operation on Line 55 in San Leandro is unsatisfactory due to the fact that many persons find it necessary to ride a long distance out of their way before reaching their destination. On the other hand, the proposed re-routing is along a much shorter route and, in many cases, will eliminate the objectionable feature of requiring passengers to go out of their way.

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(1) Resolution No. 56 C.M.S., of the City of San Leandro, dated July 6, 1937.

The only testimony which conflicted with this plan was a suggestion made by one witness to the effect that the operations of Line No. 55 be extended in San Leandro so as to provide a more complete local transportation service.

Under the proposed plan there will be no change in the fare structure or headway of operation on this line.

A review of the record leads to the conclusion that this portion of the application should be granted.

PROPOSED CHANGES ON LINE NO. 80:

This is the so-called Oakland-Castro Valley line, with its easterly terminus in Hayward and its westerly terminus in Oakland.

In this application authority is sought to re-route a portion of this line through San Leandro, as follows:

Present route is via Foothill Boulevard, Sybil Avenue, and East 14th Street; and the proposed route is via Foothill Boulevard, Estudillo Avenue, and East 14th Street.

In other words, applicant proposes to change its operation from Sybil Avenue to Estudillo Avenue, the latter being located approximately .4 of a mile to the north of Sybil Avenue. Both Sybil and Estudillo Avenues are east and west streets of San Leandro, affording a connection between Foothill Boulevard on the east and East 14th Street on the west.

The record shows that Estudillo Avenue traverses a well-developed residential section between Foothill Boulevard and East 14th Street, which is a distance of approximately one mile. San Leandro Junior High School is located at Estudillo and Bancroft Avenues, approximately midway between Foothill Boulevard and East 14th Street.

As stated above, Line No. 55 follows Estudillo Avenue between Bancroft Avenue and East 14th Street. It is proposed, however, to discontinue this portion of Line No. 55.

The development along Sybil Avenue, between Foothill Boulevard and East 14th Street, a distance of .7 of a mile, is confined to that portion between Bancroft Avenue and East 14th Street, a distance of .2 of a mile. In other words, the section along Sybil Avenue between Bancroft Avenue and Foothill Boulevard is practically undeveloped except for homes located near the intersection of Bancroft and Sybil Avenues.

The record shows that the motor coach operation along Sybil Avenue was instituted by the Peerless Stages, Ltd., predecessors in interest to applicant.

Under the present method of operation, there are only three bus stops on Sybil Avenue between Foothill Boulevard and East 14th Street. These three stops are located between Bancroft Avenue and East 14th Street. A travel check shows that on the average 13 to 15 passengers are picked up per day along Sybil Avenue.

Applicant's plan to change operations from Sybil Avenue to Estudillo Avenue was requested by the City of San Leandro, as evidenced by Exhibit No. 4.<sup>(2)</sup> The City of San Leandro introduced a petition, Exhibit No. 5, bearing the signatures of 252 residents of San Leandro, urging this change.

A number of witnesses called on behalf of applicant and the City of San Leandro testified in support of the granting of the application to change the operation from Sybil Avenue to Estudillo Avenue. This evidence in a general way surrounds the

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(2) Resolution No. 79, C.M.S., dated December 6, 1938, of the City of San Leandro.

contention that an operation along Estudillo Avenue would provide service to a large section of San Leandro which is now without transportation. In fact, the record contains considerable testimony to the effect that that portion of San Leandro to the north of Estudillo Avenue and east of Bancroft Avenue has been the scene of considerable development in the way of new homes during the past few years and that this section is removed a considerable distance from public transportation.

On the other hand, a number of witnesses opposed applicant's plan to discontinue service along Sybil Avenue, contending that this section had enjoyed the transportation for a number of years and if it were removed, would work a hardship to the residents along this street as well as having an adverse effect on the value of property.

In addition to the objection to discontinuing service along Sybil Avenue, a number of witnesses contended that such a plan would have the effect of decreasing the service on East 14th Street between Sybil and Estudillo Avenues, alleging that the other two motor coach routes along this highway, Nos. 82 and 83, would not provide reasonable and sufficient transportation.

A review of this record leads to the conclusion that motor coach operation along Estudillo Avenue would perform a greater public service than obtains from the operation along Sybil Avenue. Furthermore, the residents along and adjacent to Sybil Avenue are located only a short distance from East 14th Street, where the company now maintains two other motor coach routes, and has indicated its willingness to augment this service to the extent that is required to meet public traffic requirements. In other words, the discontinuance of motor coach operation on

Sybil Avenue should not result in an undue hardship upon the patrons along this street as the maximum increased distance to travel, as the situation now stands, will not exceed one-fourth of a mile, which does not appear unreasonable under the circumstances.

This proposed re-routing does not involve any change in the fare structure or headway of operation of Line No. 80.

A careful review of this record leads to the conclusion that this portion of the application should be granted.

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 said supplemental application being under submission,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by applicant as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, of an automotive passenger motor coach service for the transportation of passengers between and serving the following named termini

and all intermediate points, and to consolidate the same with the remainder of its operating rights:

No. 55 Line:

1. From Hollywood Boulevard and Mitchell Avenue, along Hollywood Boulevard to Foothill Boulevard, along Foothill Boulevard to Diehl Avenue, along Diehl Avenue to Dutton Avenue, along Dutton Avenue to Mitchell Avenue.

2. From Bancroft Avenue and Haas Avenue, along Haas Avenue to East 14th Street.

No. 80 Line:

From Foothill Boulevard and Sybil Avenue, along Foothill Boulevard to Estudillo Avenue, along Estudillo Avenue to Bancroft Avenue.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor 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) Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and concurrently with the abandonment of motor coach service hereinafter authorized.
- (3) The rate of fare for the service herein authorized shall be as shown in local and joint passenger tariffs of East Bay Transit Company now on file with the Commission, supplements thereto, or reissues thereof.
- (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 less than five days' notice to the Railroad Commission and the public, a time schedule or 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 or intermediate points, either in 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 political body or bodies 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.

IT IS HEREBY FURTHER ORDERED that East Bay Transit Company is authorized to abandon motor coach service described below, concurrently with the establishment of the service hereinbefore authorized:

No. 55 Line:

1. From Mitchell Avenue and Dowling Boulevard, along Mitchell Avenue to Dutton Avenue.
2. From Bancroft Avenue and Haas Avenue, along Bancroft Avenue to Estudillo Avenue.

No. 80 Line:

From Sybil Avenue and Foothill Boulevard, along Sybil Avenue to East 14th Street.

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 14<sup>th</sup> day of March, 1938.

Leon O'Connell  
Frank R. Wilson  
Ralph A. Wapling  
Ben A. Kelly  
Commissioners