

Decision No. 30081.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EAST BAY)
TRANSIT COMPANY, a corporation, for a Cer-)
tificate of Public Convenience and Necessity)
to operate certain motor coach lines; for)
authority to abandon certain motor coach)
lines; and for authority to abandon certain)
street railway lines in the County of)
Alameda, State of California.)

Application No.
19502

ORIGINAL

BY THE COMMISSION:

TWENTY-FOURTH SUPPLEMENTAL ORDER

East Bay Transit Company, on May 12, 1938, filed its supplemental application for a certificate of public convenience and necessity to establish certain new motor coach routes in the cities of Oakland and Berkeley and to discontinue certain street car service in the City of Oakland, Alameda County.

It is proposed to establish motor coach service between the business section of Oakland and Madera and Kingsland Avenues, and running along Foothill Boulevard in lieu of the existing No. 7 street car line. In order to consummate this change in service, applicant needs a certificate of public convenience and necessity to operate over certain streets as hereinafter described.

Applicant, on November 16, 1937, filed its supplemental application asking for the discontinuance of said No. 7 street car line and substitute motor coach service upon a somewhat different route than that that is now required. This former supplemental application should be dismissed.

Furthermore, applicant requests a certificate of public convenience and necessity to extend its Spruce Street (No. 67) motor coach line from Spruce Street and Vassar Avenue, Berkeley, to the residential area to the north thereof over a route as hereinafter described.

It appears that this is not a matter in which a public hearing is necessary and that 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.

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 service for the transportation of passengers, between and serving the following named termini and intermediate points, and to consolidate the same with the remainder of its operating rights:

(1) From 14th and Clay Streets, along 14th Street to 12th Street, City of Oakland, Alameda County.

(2) From 12th Street and Lakeshore Avenue, along Lakeshore Avenue to Foothill Boulevard, along Foothill Boulevard to 14th Avenue, along 14th Avenue to Foothill Boulevard, and along Foothill Boulevard to Congress Avenue, City of Oakland, Alameda County.

(3) From Foothill Boulevard and Trask Avenue, along Trask Avenue to Kingsland Avenue, thence looping via Kingsland Avenue to Birdsall Avenue, along Birdsall Avenue to Madera Avenue, and along Madera Avenue to Kingsland Avenue, City of Oakland, Alameda County.

(4) From 13th and Grove Streets, along Grove Street to 14th Street, City of Oakland, Alameda County.

(5) From Spruce Street and Vassar Avenue, along Spruce Street to Grizzly Peak Boulevard, along Grizzly Peak Boulevard to Beloit Avenue, along Beloit Avenue to Purdue Avenue, along Purdue Avenue to Kenyon Avenue, along Kenyon Avenue to Trinity Avenue, along Trinity Avenue to Beloit Avenue, along Beloit Avenue to Cambridge Avenue, along Cambridge Avenue to Yale Avenue, along Yale Avenue to Vassar Avenue, and along Vassar Avenue to Kentucky Avenue, all in the City of Berkeley, Alameda County.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, 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 date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the date hereof, and over routes (1) to (4) inclusive concurrently with the abandonment of street car 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 street car service concurrently with the establishment of service on motor coach routes (1) to (4) inclusive and to remove tracks and appurtenances thereto described as follows:

From the intersection of Fleming and Madera Avenues, via Madera Avenue to Kingsland Avenue, along Kingsland Avenue to Ygnacio Avenue, along Ygnacio Avenue to Courtland Avenue, along Courtland Avenue to Foothill Boulevard, along Foothill Boulevard to 23rd Avenue, and along 23rd Avenue to East 14th Street, City of Oakland, Alameda County.

IT IS HEREBY FURTHER ORDERED that Supplemental Application No. 19502, filed November 16, 1937, asking for a certificate of public convenience and necessity for motor coach service along Foothill Boulevard, City of Oakland, Alameda County, is hereby dismissed without prejudice.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 13th day of June, 1938.

Walter M. ...
Iron ...
Harry ...
Edward ...
Arthur ...
Commissioners