

Decision No. 31059.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of KEY SYSTEM,) Supplemental
a corporation, for a Certificate of Public) Application No.
Convenience and Necessity.) 20582.

DONAHUE, RICHARDS & HAMLIN, by FRANK S. RICHARDS,
for Applicant.

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

SUPPLEMENTAL OPINION

ORIGINAL

BY THE COMMISSION:

In this supplemental application Key System seeks authority to re-route a portion of its Hayward-San Francisco motor coach line, which is designated as route No. 3 in the Commission's Decision No. 29659, dated April 5, 1937, between the intersection of Davis Street and East 14th Street, in the City of San Leandro, and the intersection of 73rd Avenue and San Leandro Street, in the City of Oakland.

A public hearing was conducted in this proceeding before Examiner Hunter at San Leandro, June 14, 1938.

At the hearing applicant was permitted to modify its application to restrict the proposed change in routing between the intersection of Davis Street and East 14th Street, and the intersection of Peralta Avenue and San Leandro Street, all in the City of San Leandro, as shown on Exhibit No. 2. Applicant stated that the primary reason for proposing the change is to avoid a left-turn at the intersection of Davis and East 14th Streets, which, from a traffic standpoint, is one of the most important intersections in the City of San Leandro. Under applicant's plan the left-turn movement will be transferred from this intersection to the less important one at East 14th Street and Peralta Avenue. Under the proposed plan, interurban motor coach service will be

discontinued along Davis Street between East 14th and San Leandro Streets, a distance of about 1400 feet, and along San Leandro Street between Davis Street and Peralta Avenue, a distance of about 1600 feet. Under the present plan of operation, the motor coach makes but one stop along that portion of the route where service is proposed to be discontinued, where on the average two passengers are picked up per day. It appears from this record that the proposed route will offer service to a larger number than was the case with the portion of the route proposed to be abandoned.

The City of San Leandro urges the granting of this application, as evidenced by its Resolution No. 105 C.M.S., adopted June 13, 1938 (Exhibit No. 1).

No opposition developed to the granting of this application.

It appears from the record that the proposed change is in public interest and should be authorized.

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 hearing 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 re-routing by Key System, a corporation, of its motor coach operation between the City and County of San Francisco and Hayward,

designated as route No. 3 in Decision No. 29659, dated April 5, 1937, said re-routing to be confined to a portion of the route located within the City of San Leandro. The description of route No. 3, as set forth in said Decision No. 29659, is amended to read as follows:

"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 Peralta Avenue, in the City of San Leandro, along Peralta Avenue 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."

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

- (1) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty days from the date hereof.
- (2) Service over the new route shall be commenced within a period of not to exceed ninety (90) days from the date hereof. Applicant shall so advise the Commission when service is commenced.

In all other respects Decisions Nos. 29659, 30170 and 30608 shall remain in full force and effect.

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

Dated, San Francisco, California, June 27th, 1938.

William M. ...
Frank ...
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Commissioners