

Decision No. 21479

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
KEY SYSTEM, a corporation, to abandon
certain motor coach operations.

Supplemental Application
No. 20418

DONAHUE, RICHARDS and HAMLIN, by Frank S. Richards for applicant.

F. B. FERNOFF, City Attorney, and WALTER W. COOPER, for City of
Oakland, Protestants.

BY THE COMMISSION:

O P I N I O N

Applicant, Key System, has applied to this Commission for authority to abandon the operation of its so-called "J" motor coach line. This loop service operates from 12th and Jackson Streets, Oakland, along 12th to Webster, along Webster to 19th, along 19th to Jackson, along Jackson to Lake, along Lake to Madison, along Madison to 12th, and along 12th to point of beginning. The service connects at 12th and Jackson Streets with all the Key transbay trains from about 7:00 A. M. to 7:00 P. M.

A hearing in this matter was held in Oakland on November 10, 1938, before Examiner Edwards, at which time the matter was submitted for decision. Applicant based its case upon the principal contentions: first, that the area was already properly served by its adjacent electric lines; secondly, that the line wholly failed to meet its out-of-pocket costs of operation; and, thirdly, that the "J" route was serving few patrons.

Concerning the first point, namely, the adequacy of the adjacent services, it was pointed out that every place within the area now served by the "J" line lies within 2,000 feet of either the 12th Street or the 22nd Street transbay interurban lines of the Key System; and attention was called to the fact that the Commission had previously held in related cases involving these

transbay interurban lines that 2,000 feet was not an unreasonable distance.(1)

Concerning the losses incurred in the operation, evidence was introduced to show that from the introduction of the service on April 12, 1936, up to September 30, 1938, the out-of-pocket costs had far exceeded the receipts, the former being \$10,422.30, and the latter \$711.29. These costs embrace operators' wages, fuel, lubricants, garage labor and expense, and maintenance of equipment, but exclude taxes and overheads. By periods these values were:

| | <u>1936</u> <u>Apr. 12 to</u> <u>Dec. 31</u> | <u>1937</u> <u>Calendar</u> <u>Year</u> | <u>1938</u> <u>Jan. 1 to</u> <u>Sept. 30</u> | <u>Total</u> <u>Apr.12, 1936 to</u> <u>Sept. 30, 1938</u> |
|-------------------------------------|--|---|--|---|
| Out-of-pocket costs | \$2,963.96 | \$4,267.73 | \$3,190.61 | \$10,422.30 |
| Cash Receipts | <u>168.93</u> | <u>293.47</u> | <u>248.89</u> | <u>711.29</u> |
| Out-of-Pocket Loss, Before Taxes | <u>\$2,795.03</u> | <u>\$3,974.26</u> | <u>\$2,941.72</u> | <u>\$ 9,711.01</u> |

The above expenses, as noted, were out-of-pocket costs. If all costs are considered, including taxes and overhead, the relationship, on a mileage basis, was as follows:

| | <u>Per Mile</u> |
|-----------------------------|-----------------|
| Receipts (local passengers) | 1.5¢ |
| Out-of-pocket cost | 13.72¢ |
| Total Expenses (1937) | 18.63¢ |

The revenues referred to hereinabove take credit for the local passengers only. It would appear that this line should be credited with some portion of the revenue from transbay passengers, inasmuch as it was created to serve this traffic, the local service being, in effect, but a by-product of the interurban service. The maximum length of the haul on the "J" route is approximately 0.4 miles

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- (1) In a parallel case involving transbay service to and from a district in Berkeley the Commission stated:
 "**** the section is practically all provided with transbay service within a distance of 2,000 feet to the nearest station, which is not an unreasonable distance to reach interurban lines."

Decision No. 25740, in Applications Nos. 18640 and 18641, dated March 16, 1933.

as compared to the 9.5 miles on the Key Route. A prorate on a mileage basis would give the route but a fraction of a cent per passenger,⁽²⁾ a negligible amount. If one assumes a revenue equal to that received from local token passengers of 7-1/7 cents (7 rides for 50 cents), the gross would approximate \$1,800 per year.⁽³⁾ On this basis, the gross receipts of the line during the calendar year might be estimated at \$2,100 (\$293.47 for local passengers plus \$1,800 for interurban passengers). This is to be compared to the 1937 out-of-pocket cost of \$4,267.73. However, this view assumes the value of this feeder service to be 7-1/7 cents, which is probably optimistic, as the actual volume of transbay traffic from this area is probably little affected by the operation of this bus service. Many other east bay areas are no more favorably situated with relation to interurban transportation than is this district. But, however one evaluates the revenue from transbay passengers, the line substantially fails to meet its out-of-pocket costs.

As evidence of the burden on the company in carrying this loss applicant introduced an income statement showing its system operating losses for September, 1938, to have been \$28,019.82, and for the first nine months of 1938 to have been \$254,120.40.

Seventy-four trips per day are operated, handling (during August 1938), an average of 0.90 transbay passengers and 0.32 local passengers per trip, or a total of 1.22. The total number of riders may be stated as follows:

| | <u>Per Trip</u> | <u>Per Day</u> |
|----------|-----------------|----------------|
| Transbay | 0.90 | 66.6 |
| Local | <u>0.32</u> | <u>23.7</u> |
| Total | 1.22 | 90.3 |

(2) The interurban commutation rate is \$6.50 per month.

(3) 2,071 transbay passengers (handled during August, 1937) at 7-1/7¢ each amounts to \$147.87 per month, or approximately \$1,800 per year.

It was agreed by all parties that the purpose and function of the operation was to serve transbay passengers only, local passengers being well served by local street car or bus services.⁽⁴⁾ In fact the district is practically within downtown Oakland.

Concerning the number of passengers who would be affected by the abandonment of this route, an analysis of the evidence shows that an average of 12 occasional riders (non-commuters) and 19 commuters use the service daily westbound, or 31 revenue passengers in all. The average eastbound is about 34.⁽⁵⁾ This assumes each individual makes a round trip. From these figures it would appear that about 20 or more regular commuters and 12 to 14 occasional riders would be affected daily by the abandonment.

Applicant stated that it had used every method available to develop the traffic and had twice made material changes (once in the route and once in the terminal point), but without success.

The question is whether it is in the public interest that the carrier should be required to bear an annual out-of-pocket loss of something between \$3,500 and \$4,000 to continue a service to a group of this size. Applicant alleged that public convenience and necessity neither required the service now, nor did it require it at the time it was put in on what applicant terms to have been an experimental basis. The service was inaugurated to meet the requests of residents in the area, following the abandonment of the Southern Pacific 18th Street line.

Applicant was supported in its move to abandon the service

(4) The following number of local street car or bus lines tap the area (these do not provide free transfer to the interurban transbay lines).

| | |
|----------------|--------------|
| 12th Street |5 lines |
| 13th Street |9 lines |
| 14th Street |1 line |
| Webster Street |1 line |

(5) Exhibit No. 12. Values are based on August, 1938, which is the month of peak traffic for the year.

by the Oakland Chamber of Commerce and the Down Town Property Owners Association, Inc., witnesses for both groups testifying at the hearing. The City of Oakland appeared in opposition to the abandonment of the service in so far as the transbay connections were concerned,⁽⁶⁾ no concern being expressed as to the withdrawal of local service.

At the suggestion of the presiding examiner a witness took the stand to introduce into the record a petition opposing the abandonment which had been previously mailed to the Commission and held in its files. The signers of this petition lived generally in the neighborhood of Jackson, Lake and Madison Streets, an area devoted largely to large hotels and apartments. Some of the signatures were personally obtained by the witness who had been granted permission to canvass certain of the hotels and apartments. In other cases the petitions were left with the managers or clerks of the hotels or stores and they obtained the signatures. The witness stated that he regularly used the service and was a property owner in the district. He was the only one person to appear from the area affected.

Before drawing any conclusions in this case it is desirable to briefly summarize the history and "raison d'etre" of this "J" line operation. The records in a series of related cases preceding the present application were made part of the record by reference. Such history follows herewith.

In its Decision No. 25740 of March 16, 1933, in Applications

(6) The record indicates that the protest entered by the city was based upon its knowledge of a petition signed by local residents having been filed with the Commission. No protests were received by the City Council itself.

Nos. 18640⁽⁷⁾ and 18641,⁽⁸⁾ this Commission authorized the abandonment of certain duplicating interurban services performed in Oakland, Berkeley, and Emeryville by the Key System and Southern Pacific Company. Among such abandonments was the 18th Street Line of the Southern Pacific Company. This line operated along Webster Street between 12th and 20th Streets, Webster Street constituting one side of the approximate square around which the "J" bus line now operates. Under date of October 29, 1934, the City of Oakland applied to this Commission for an order requiring the Southern Pacific Company to restore service on the 18th Street Line (Case No. 3908). Applicant alleged that the withdrawal of this service had had the effect of reducing property values and causing business to leave the area, and that convenience and necessity required resumption of the service. Defendants, Southern Pacific Company, and intervenor, Key System, presented evidence tending to show that the area involved was reasonably served by the 12th and 22nd Street lines of Key System and that none of the area was more than 2,000 feet removed from one or other of these lines. The carriers also noted that the abandonment of the 18th Street line was part of a general program for the elimination of duplications of service approved by both the Interstate Commerce Commission and the California Railroad Commission. Certain property owners and business men of the involved area testified that the Key System lines adequately served the territory.

The Commission in its decision in this matter ⁽⁹⁾ found

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- (7) An application on the part of the Key System to discontinue certain services on its Shattuck Avenue and Northbrea-Sacramento Street Lines, and to operate over a portion of the Southern Pacific Company's California Street Line. Filed January 9, 1933.
- (8) An application of Southern Pacific Company to discontinue service on its 18th Street Line Ellsworth and California Street Lines in the cities of Oakland and Berkeley and to grant the Key System certain trackage rights over a part of its California Street Line. Filed January 9, 1933.
- (9) Decision No. 28672 in Case No. 3908, dated March 23, 1936.

that there had been but little change in the way of public needs in the district formerly served by the 18th Street line and held that it would be justified in ordering the restoration of the service only upon a clear showing that public convenience and necessity required the service, and with due consideration to other factors which must be considered. It held that the necessary showing of public convenience and necessity had not been made but noted at the time that in looking into the future it expected some improvement in the interurban transportation service to this and other districts of the east bay cities.

Under date of March 13, 1936, ⁽¹⁰⁾ the Key System filed an application stating that it had been requested by residents of the area to maintain and operate, as a part of its interurban service, a motor coach service, which has already been referred to hereinabove as the "J" line. The Commission, in Decision No. 28573, dated March 23, 1936, granted the requested authorization, noting that the proposed motor coach line was designed to serve the area to the south and west of Lake Merritt and north of 12th Street and east of Webster Street.

Under date of July 9, 1936, the Key System applied for a slight change in the above routing, which was granted by the Commission. ⁽¹¹⁾ The resultant route is that operated today and is that which applicant, Key System, now desires to abandon in its present application.

CONCLUSION

Considering first the problem as to whether the area is sufficiently served by the 12th and 22nd Street interurban lines,

(10) Application No. 20418.

(11) Decision No. 29014, a First Supplemental Order in Supplemental Application No. 20418, dated July 22, 1936. This changed the routing from the north to the south side of the short block bounded by Lake, 19th, Jackson, and Madison Streets to better serve two hotels.

it would appear that the answer must be in the affirmative for the reason that the entire area lies within the 2,000 feet which this Commission has held to be not unreasonable for interurban lines. Most of the area is within a much lesser distance than this.⁽¹²⁾ The sole witness in opposition, and most of the signers to the petition he introduced, live on Jackson, Madison, or Lake Streets. The corner of Jackson and Lake Streets is about 1,600 feet from the Key System's 12th Street station, while the corner of Madison and Lake Streets is between 1,800 and 1,900 feet from this stop. This latter point, located at the northeast corner of the "J" line route is also between 1,600 and 1,700 feet from the closest stop of the Southern Pacific Company's former 18th Street line referred to hereinabove. Many areas throughout Oakland and Berkeley are less favorably situated than this one, although probably none has the same concentration of large hotels and apartments as does this district. The mid-point of the entire area is about 1,000 feet from 12th Street.

It does not appear that this bus line serves any substantial public interest. This is evidenced by the fact that despite the heavy concentration of large residential structures and despite the fact that the service is, in effect, free to transbay riders, being included in the transbay rate, yet a surprisingly small number of persons make use of it. It is significant that with the exception of the one witness, no one from the area served appeared at the hearing. This is in sharp contrast to the vigorous position taken by the interests from this district in Case No. 3908 referred to hereinabove.

(12) Based on a study of the destination of all Key System passengers from this district served by the 12th Street trains between Webster and Jackson Streets, inclusive, and served by the 22nd Street train at Harrison Street; 54% have a walking distance of 500 feet or less; 85.2% of 1000 feet or less, 90.6% of 1500 feet or less; and 100% of 2,000 feet or less. Based on traffic count of eastbound passengers, made April 11, 1935, see Exhibit No. 30 in Case No. 3908.

Concerning the financial results, it is to be noted that regardless of how liberal one may be in crediting this line with a portion of the transbay revenues, it still fails by a wide margin to cover its out-of-pocket cost. Such losses must eventually be reflected either in the rates or in the quality of the service which the company can offer its patrons as a whole. Furthermore, financial burdens which might be laid upon a company operating in full financial vigor and enjoying a return cannot lightly be required of a concern operating at a loss.

Upon due consideration of all the facts of evidence, it appears that this application should be granted.

O R D E R

A public hearing having been held and the matter having been duly submitted,

IT IS HEREBY ORDERED that Key System be authorized, upon not less than ten (10) days' notice to this Commission and to the public, to abandon its motor coach operation upon the following described route, and to amend its tariffs and time schedules accordingly:

From 12th and Jackson Streets, along 12th Street to Webster Street, along Webster Street to 19th Street, along 19th Street to Jackson Street, along Jackson Street to Lake Street, along Lake Street to Madison Street, along Madison Street to 12th Street, along 12th Street to the point of beginning.

The authority herein granted shall become effective twenty (20) days from the date hereof.

Dated, San Francisco, California, November 28, 1938.

Ray & Riley

Ray & Riley

(Commissioners)