

Decision No. 31502

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
EAST BAY TRANSIT COMPANY, a corporation, )  
for a Certificate of Public Convenience ) Application No. 19502.  
and Necessity to establish an alternate )  
route in the City of Oakland, County of )  
Alameda, State of California. )

TWENTY-SEVENTH SUPPLEMENTAL ORDER

Applicant in its Supplemental Application, filed September, 26, 1938, seeks a certificate of public convenience and necessity to operate passenger motor coaches over the following routes:

- (a) From 11th and Fallon Streets, along Fallon Street to 10th Street, and along 10th Street to Harrison Street in the City of Oakland.
- (b) From Washington and 10th Streets, along 10th Street to Clay Street in the City of Oakland.

Applicant desires to consolidate the actual operation of its Hayward and Richmond lines so that motor coaches may operate directly through the Oakland business district as a single route without the necessity of terminal points in that area. In order to effect such a through routing it will be necessary to use the above-described routes in the business district of Oakland in addition to those existing in that area.

It appears that this is not a matter in which a public hearing is necessary and that the request 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, along the following described routes, and to consolidate the same with the remainder of its operating rights:

- (a) From 11th and Fallon Streets, along Fallon Street to 10th Street, and along 10th Street to Harrison Street in the City of Oakland.
- (b) From Washington and 10th Streets, along 10th Street to Clay Street in the City of Oakland.

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 date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the date hereof.
- (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.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of November, 1938.

Walter V. Phelps  
Leon Wheeler

Ray L. Rice

Commissioners