

Decision No. 32719

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EAST BAY TRANSIT COMPANY, a corpo-)
ration, for a Certificate of Public)
Convenience and Necessity to Operate) Application No. 19502
motor coach service in the County of)
Contra Costa.)

BY THE COMMISSION:

THIRTIETH SUPPLEMENTAL ORDER

In the above entitled supplemental application East Bay Transit Company requests a certificate of public convenience and necessity to operate a motor coach service over certain streets in the City of Richmond on a ninety-day experimental basis with the condition that if said service does not make its out-of-pocket costs of operation during said period the service may be discontinued.

Applicant states that it has been requested by the City of Richmond to operate a motor coach service from the inter-section of Tenth Street and MacDonald Avenue, along Tenth Street to Barrett Avenue, along Barrett Avenue to 23rd Street, thence along 23rd Street, over which applicant at present has a certificated line, to Garvin Avenue, thence along Garvin Avenue to Key Boulevard.

Letters filed with the application from officials of the City of Richmond state that the city approves the proposed route and is agreeable to the ninety-day trial basis.

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 designated in Section 2- $\frac{1}{2}$ of the Public Utilities Act, of automotive passenger service for the transportation of passengers upon and along the following route, and to consolidate the same with the remainder of its operative rights.

From the intersection of Tenth Street and MacDonald Avenue, along Tenth Street to Barrett Avenue, along Barrett Avenue to 23rd Street, along 23rd Street to Garvin Avenue, along Garvin Avenue to Key Boulevard, thence returning via the same route to the point of beginning.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same is hereby granted to the East Bay Transit Company, subject to the following conditions:

- (1) Applicant shall operate the service herein authorized for a period of ninety (90) days from and after the inception of such service.
- (2) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- (3) Applicant shall commence service herein authorized within a period not to exceed thirty (30) days from the date hereof.
- (4) 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 re-issues thereof.
- (5) 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.

- (6) 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.
- (7) The right 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.
- (8) 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 9th day of
January, 1940.

Ray C. Allen
Frank M. Allen
Robert A. Allen
H. B. Allen
Justus J. Coe