

Decision No. 35409

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EAST )  
BAY TRANSIT COMPANY, a corporation (now )  
merged into Key System, a corporation, )  
for a Certificate of Public Convenience )  
and Necessity to Operate Certain Motor )  
Coach Service and to Reroute Service in )  
the Counties of Alameda and Contra Costa, )  
State of California. )

Application No. 19502  
(47th Supplemental)

ORIGINAL

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

THOMAS M. CARLSON, City Attorney, for City of Richmond.

J. D. TULLY, for certain citizens in the vicinity of Albemarle and Stockton Streets, Richmond.

FRED S. NEWSOM, representing City of Richmond's Transportation Committee.

RILEY, COMMISSIONER:

O P I N I O N

On February 27, 1942, East Bay Transit Company (Now Key System) (1) filed application requesting authority to reroute and extend the northern end of its No. 67 Spruce Street motor coach line serving the Albany-Berkeley area, to establish an over-lapping fare zone in connection with said rerouting, and to reroute the No. 68 Barrett Avenue local motor coach line in the City of Richmond.

Public hearing was held in the City of Richmond on April 2, 1942, and the matter was submitted on that date and is now ready for decision.

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(1) By Decision No. 35073, dated February 24, 1942, in application No. 24746, East Bay Transit Company and Key System were authorized to execute an agreement of merger, wherein Key System would be the surviving corporation.

At present the No. 67 Spruce Street line operates from the hill section of Berkeley southerly along Spruce Street to University Avenue, thence westerly through the principal business section of Berkeley along University Avenue to Grove Street, thence northerly on Grove Street, The Alameda, Tacoma Avenue, Colusa Avenue, Fairmount Avenue, and Richmond Street to Stockton Street. On the return trip the line is routed easterly on Stockton Street, southerly on Albemarle Street to Fairmount Avenue, completing a large loop, and from that point proceeds over the outbound route. The line connects the cities of El Cerrito and Albany with the central business district of Berkeley.

Applicant's proposal is to discontinue that portion of the present loop in El Cerrito along Fairmount Avenue between Albemarle and Richmond Streets, and along Richmond Street between Fairmount Ave. and Stockton Street; to operate service in both directions along the other side of the loop, and to extend the line along Stockton Avenue from Richmond Street to San Pablo Avenue, thence north on San Pablo Avenue to Huntington Avenue, west on Huntington Avenue to Panhandle Boulevard, thence via Panhandle Boulevard to East Shore Highway (sometimes called Eastshore Boulevard), returning via the same route. In connection with the proposed extension and rerouting applicant wishes to establish an over-lapping fare with the zone point inbound located at Colusa and Fairmount Avenues and, outbound, at the intersection of Richmond Street and Stockton Street. In addition, persons boarding at the intersection of Richmond Street and Stockton Street or any point south thereof will be entitled to passage to any point within the present central fare zone for a single fare, and persons boarding northbound at the intersection of Fairmount and Colusa Avenues or any point north thereof will be entitled to passage from the point of boarding to any point north thereof for a single fare.

Applicant in supporting the request for authority to extend the No. 67 Spruce Street line contends that service will be provided to a newly developed and rapidly growing residential area in the Richmond Panhandle District; that said area is now without service; that direct service will be provided from the southerly portion of Richmond and the northerly portion of El Cerrito to the El Cerrito High School; that said high school is now inaccessible; and that direct service will be afforded between the Richmond-El Cerrito area and the central business section of Berkeley, thereby obviating the necessity for frequent transfers.

With respect to the financial status of this line under present operations and the probable effect of the extension upon its earnings, the application was silent. It was only upon questioning of applicant's witness by the presiding Commissioner that the comparative estimates of operating costs and revenues were disclosed. For the year 1941 it was stated that an operating loss of \$2,121.01 was experienced on the No. 67 line, that with the proposed extension the loss would be increased by \$16,300, and that 91,520 additional coach miles would be required.

Although the economic aspects cannot be accepted as the sole criterion in arriving at a determination of the merits of a proposed extension, even during normal times this Commission has been reluctant to authorize establishment of a service that would result in an obvious financial drain upon the rest of the system without a conclusive showing of necessity for the service. Despite the weakness of applicant's affirmative showing in this instance the record clearly indicates that a firm commitment had been made to the people of the Cities of El Cerrito and Richmond, prior to the filing of this application, that Key System was willing to perform

the extended service.

The proffer of this unprofitable extension by Key System is inconsistent with that company's attitude as expressed in connection with other formal matters of recent date before this Commission, and there appears to be no alternative but to infer that the proposal herein was made with the expectation that relief would be obtained from the commitment by a denial of this portion of the application. The use of the functions of this Commission for such purposes cannot be condoned, nor should a definite promise by a utility to its patrons be lightly cast aside in the interest of avoiding financial impairment of the operator. Where the management of a utility in the face of the existing emergency embarks upon doubtful ventures, in view of the probable urgent need for its equipment in the war industry, the consequences of such action should be its own responsibility. On the other hand it must be impressed upon the company and the public that in the event the equipment used in this service becomes urgently needed for service to vital war industries, reestablishment of the present operations may be expected.

With respect to the proposed alteration in the local motor coach service within the City of Richmond, specifically, the so-called Barrett Avenue motor coach line No. 68, the conditions are

somewhat different from those relating to the No. 67 line. At present applicant operates its No. 68 motor coach line from the residential area located on the hills to the east of San Pablo Avenue, westerly along Roosevelt Avenue and 23rd Street to the principal business section of Richmond, thence continuing westerly along MacDonald Avenue to 10th Street, north to Pennsylvania Avenue, east to 20th Street, north to Garvin Avenue, and east on Garvin Avenue to a terminus at Humboldt Street, four blocks east of San Pablo Avenue.

Generally the configuration of this operation describes the letter "U," with the two legs east of 23rd Street located generally parallel and at a distance apart of only about 1,200 feet at 23rd Street, and 2,500 feet at San Pablo Avenue. Operating parallel to the south leg of the line along Roosevelt Avenue between 23rd Street and San Pablo Avenue is another local service on MacDonald Avenue, a distance of only about 1,500 feet.

The routing as proposed by applicant will separate these parallel lines to conform more nearly to what the Commission has in the past considered to be a reasonable spacing for this type of operation. The proposal will provide continuation of the present route from Tulare Avenue in the residential area west along Barrett Avenue to San Pablo Avenue, and north on San Pablo Avenue to Roosevelt Avenue, thence from that point the present line will be rerouted to operate along San Pablo Avenue to Clinton Avenue, west to 38th Street, south to Corrito Avenue, west to 36th Street, north to Clinton Avenue, west to 25th Street, south to Roosevelt Avenue, thence following the existing route west on Roosevelt Avenue to 23rd Street, south to MacDonald Avenue, west to 10th Street, north to Pennsylvania Avenue, thence deviating from the existing route and continuing north on 10th Street to 13th Street, north to Rhcem Avenue, and east to a

terminus at San Pablo Avenue. The plan involves discontinuance of operation along Roosevelt Avenue between San Pablo Avenue and 25th Street, and along Garvin and Pennsylvania Avenues between 10th and Humboldt Streets. The proposed operation along Rheem Avenue will serve a rapidly developing residential area which is now located outside the service area of the existing line. The distance between Rheem Avenue and Clinton Avenue is only about 2,700 feet, providing a maximum walking distance of about 1,350 feet, or approximately one-quarter mile. The proposal will also establish a distance of approximately 2,700 feet between the local line on MacDonald Avenue and that proposed on Clinton Avenue. This arrangement will give a more efficient coverage of the territory and bring within the service area a newly developed residential district with only a slight extension in route miles.

Applicant's witness estimated that this rearrangement of the No. 68 line will result in an added operating cost of \$5,500 per year and increased revenue to the extent of \$5,000. The plan as proposed was supported by official representatives of the City of Richmond with the understanding that the increased service so provided constitutes a minimum, and that as increased growth of population and industrial activity is realized Key System will be expected to keep pace by appropriate betterments in service and operations. The City Attorney of Richmond stated that he had been designated by the City Council to appear and inform the Commission that the City of Richmond was in accord with the application.

A review of the record indicates that public convenience and necessity require the rearrangement of the local passenger operations of Key System in Richmond, and that the portion of the application relating thereto should be granted.

O R D E R

Public hearing having been held in the matter of the application of East Bay Transit Company (now Key System) for authorization to make certain changes in its passenger motor coach routes in Alameda and Contra Costa Counties, California, the Commission being fully apprised in the premises, and the matter being now ready for decision,

I.

IT IS HEREBY ORDERED that a certificate be and it is hereby granted to Key System for the operation of an automotive passenger stage service, as that term is defined in Section 2 $\frac{1}{2}$  of the Public Utilities Act, for the transportation of passengers between points in Alameda and Contra Costa Counties, to be consolidated with the remainder of its operating rights, subject to the following conditions:

- (1) Said service shall commence within a period not to exceed sixty (60) days from the effective date hereof.
- (2) Said service shall be commenced upon not less than five (5) days' notice to the Commission by letter and to the public by printed notices posted in coaches on the lines affected.

II.

IT IS HEREBY FURTHER ORDERED that Key System shall operate the passenger transportation service authorized above in compliance with the following regulations:

- (1) Subject to the authority of this Commission to change or modify such at any time by further order Key System shall conduct said passenger stage operations along the following described routes:

- (a) No. 68 Barrett Avenue Motor Coach Line

Commencing at the intersection of  
Barrett Avenue and Ellerhorst Avenue,

along Ellerhorst Avenue to Charles Avenue, along Charles Avenue to Tulare Avenue, along Tulare Avenue to Barrett Avenue, along Barrett Avenue to San Pablo Avenue, along San Pablo Avenue to Clinton Avenue, along Clinton Avenue to 38th Street, along 38th Street to Cerrito Avenue, along Cerrito Avenue to 35th Street, along 35th Street to Clinton Avenue, along Clinton Avenue to 25th Street, along 25th Street to 24th Street, along 24th Street to Roosevelt Avenue, along Roosevelt Avenue to 23rd Street, along 23rd Street to MacDonald Avenue, along MacDonald Avenue to 10th Street, along 10th Street to Kearney Street, along Kearney Street to 13th Street, along 13th Street to Rheem Avenue, thence along Rheem Avenue to a terminus at San Pablo Avenue, returning via the same route.

(b) No. 67 Spruce Street Motor Coach Line

With respect to the western portion of this line the routing shall be along Grove Street from University Avenue to The Alameda, thence via The Alameda to Tacoma Avenue, along Tacoma Avenue to Colusa Avenue, along Colusa Avenue to Fairmount Avenue, along Fairmount Avenue to Albemarle Street, along Albemarle Street to Stockton Street, along Stockton Street to San Pablo Avenue, along San Pablo Avenue to Huntington Avenue, along Huntington Avenue to Panhandle Boulevard, thence along Panhandle Boulevard to East Shore Highway, returning via the same route.

- (2) Rates of fare, rules and regulations now in effect on the No. 68 Barrett Avenue motor coach line shall apply to that line after rerouting as authorized herein.
- (3) No change shall be made in the existing fare structure applying to the No. 67 Spruce Street motor coach line, except as follows:
  - (a) Persons boarding southbound coaches at points north of the intersection of Fairmount and Colusa Avenues shall be transported from the point of boarding to said intersection upon payment of a 10¢ cash fare or one token, and a second 10¢ cash fare or one token shall be charged for transportation beyond that point.



- (b) Persons boarding northbound coaches at points south of the intersection of Richmond and Stockton Streets shall be transported from the point of boarding to said intersection upon the payment of a 10¢ cash fare or one token, and a second 10¢ cash fare or one token shall be charged for transportation beyond that point.
- (c) Persons boarding southbound coaches at the intersection of Richmond and Stockton Streets or any point south thereof shall pay a 10¢ cash fare or one token for transportation to any point within the central fare zone.
- (d) Persons boarding northbound coaches at the intersection of Fairmount and Colusa Avenues or any point north thereof shall pay a 10¢ cash fare or one token for transportation to any point within the northern fare zone.

III.

IT IS HEREBY FURTHER ORDERED that Key System be and it is hereby authorized to discontinue passenger service upon not less than five (5) days' notice to this Commission and the public along those portions of the existing route, as described below, and to amend in conformity with the rules of this Commission all passenger rate tariffs, time schedules, rules and regulations, in so far as applicable, upon the condition that in lieu of said discontinuance of motor coach service, operation shall be commenced over the route as authorized under Sections I and II above:

- (1) Along Roosevelt Avenue between San Pablo Avenue and 25th Street.
- (2) Along Garvin Avenue from Humboldt Street to 20th Street, along 20th Street from Garvin Avenue to Pennsylvania Avenue, and along Pennsylvania Avenue from 20th Street to 10th Street.

IV.

IT IS HEREBY FURTHER ORDERED that concurrently with discontinuance of motor coach service over those portions of the No. 68 motor coach line as authorized under paragraph III above, certificates heretofore granted to Key System or its predecessors by previous orders of this Commission, as applying to said portions of said

route, shall be revoked.

VI.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The effective date of this order shall be five (5) days from the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of May, 1942.

Justus F. Cameron  
Ray L. Rice

Arthur S. Baker  
Commissioners