

Decision No. 36740

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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|---------------------------------------|---|--------------------------|
| In the Matter of the Application of |) | |
| KEY SYSTEM, a corporation, for a |) | |
| Certificate of Public Convenience and |) | |
| Necessity to Operate Certain Street |) | Sixty-Fifth Supplemental |
| Railway and Motor Coach Routes in the |) | Application No. 19502 |
| Counties of Alameda and Contra Costa, |) | |
| State of California. |) | |

DONAHUE, RICHARDS & HAMLIN, by Frank S Richards
and W. S. Rankin, for Applicant.

CLARK & HEAFEY, by Leon A. Clark, for Mountain View
Cemetery Association, Protestant.

F. BERT FERNEOFF, City Attorney, for City of
Oakland, Interested Party.

BY THE COMMISSION:

O P I N I O N

In this supplemental application Key System seeks authority to discontinue the operation of its No. 60 motor coach line serving Mountain View Cemetery in the city of Oakland.

A public hearing was conducted in this matter before Examiner Hunter, at Oakland, on November 8, 1943, at which time the matter was taken under submission and is now ready for decision.

The operation sought to be abandoned consists of a shuttle motor coach line operated along Piedmont Avenue between its southerly terminus at Key System's station, located at 41st and Piedmont, and its northerly terminus in the grounds of the Mountain View Cemetery near the main entrance, at the northerly terminus of Piedmont Avenue. The length of this route is approximately 3,000 feet. This motor coach service is now conducted between the hours of 1:49 p.m. and 2:49 p.m., with a headway of 10 minutes, and employs the use of one motor coach.

The motor coach operation under consideration is paralleled along Piedmont Avenue by the Key's local street car line No. 10 and

its interurban rail line "C", between 41st Street and Mather Street, a distance of 2,200 feet, therefore, the only portion of the route over which the No. 60 motor coach is operated, which is not paralleled by rail line, is from Mather Street to the cemetery, a distance of 800 feet. The headway on the No. 10 street car line is 13 minutes while that of the interurban is 40 minutes.

The record shows that on the average 13.3 passengers were carried per day during the first six months of this year.

The only protest to the granting of this application was that entered by the Mountain View Cemetery Association. F. B. Cullom, superintendent of this cemetery, testified that while the primary function of the No. 60 line was to carry traffic to the Mountain View Cemetery it also affords some public transportation to and from two adjoining cemeteries.

He further stated that, in his opinion, there existed a need for public transportation to the Mountain View Cemetery but in the interest of the war effort, he was agreeable to entering into a stipulation to the effect that service on the No. 60 motor coach line may be discontinued on a temporary basis, with the understanding that, when the present acute shortage of transportation facilities and manpower has passed, the service is to be restored on some basis which reasonably meets the need for public transportation to the cemetery. To this proposal counsel for the Key System took the position that the service should be discontinued now with the understanding that if, after the war conditions have passed, there is shown to exist a need for the resumption of the operation, it can be restored.

Both applicant and protestant are in agreement that it is in the interest of the war effort to discontinue the operation at this time. They are not in agreement, however, as to whom should assume the burden of proof with respect to the justification of

public transportation to the cemetery after the war. The applicant takes the position that this proof should rest with the cemetery officials, and counsel for the cemetery contends that this burden should be borne by the Key System.

After due consideration of this matter, it appears to the Commission that the stipulation entered by the representative of Mountain View Cemetery is reasonable and that the proof should rest with the Key System as to whether or not the service should be discontinued on a basis other than a temporary one. The following order will so provide.

O R D E R

Public hearing having been held in the above-entitled matter, the Commission finds upon this record that the Key System should be authorized to discontinue the operations of its No. 60 motor coach line serving the Mountain View Cemetery, in the city of Oakland, on a temporary basis.

IT IS ORDERED that the Key System is hereby authorized to discontinue the operation of its said No. 60 motor coach line, up to and including December 31, 1944, subject to the following conditions:

1. Service shall be discontinued upon not less than five (5) days' notice by letter to the Commission and appropriate notice to the public in the form of cards placed in all equipment operated on this line.
2. Applicant shall amend its tariffs and time schedules, within thirty (30) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public, to reflect the authority herein granted.

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

Dated at San Francisco, California, this 30th day of November, 1943.

Francis R. Havens
John A. ...
Justus F. ...
Edward ...
Frank ...

COMMISSIONERS