

ORIGINAL

Decision No. 37031

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of KEY)	
SYSTEM, a corporation, for a Certificate)	
of Public Convenience and Necessity to)	Application No. 19502
operate certain street railway and motor)	(68th Supplemental)
coach routes in the Counties of Alameda)	
and Contra Costa, State of California.)	

BY THE COMMISSION:

OPINION AND ORDER

By its 68th Supplemental Application in the above proceeding Key System proposes to rearrange the route of its No. 90 motor coach line which operates between 14th and Davis Streets in San Leandro and High Street and East 14th Street, Oakland, along San Leandro Street and various other streets.

The proposed rearrangement contemplates extending service into the so-called Brookfield Village area on 98th Avenue southwest of San Leandro Street. In order to make direct connection with both transbay and local service, it is proposed to move the Oakland terminal easterly from High and East 14th Streets to the intersection of 47th Avenue and East 14th Street.

Applicant alleges that the rearranged route will require no additional manpower or equipment; that the mileage will be substantially the same; and that Brockfield Village area will be provided with a needed service.

It appears that this is not a matter in which a public hearing is necessary and that said 68th Supplemental Application should be granted.

Applicant is hereby placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as

the consideration for the granting of such rights. 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.

IT IS HEREBY ORDERED that:

I. A certificate of public convenience and necessity be and it is hereby granted to Key System as a passenger stage corporation for the transportation of passengers between San Leandro and Oakland, as an extension and enlargement of its present operative rights and consolidated therewith, subject to the following conditions:

- (1) The service herein authorized shall be commenced within a period of not to exceed thirty (30) days from the date hereof.
- (2) The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Key System, its successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof an amount in excess of that paid to the State as the consideration for such rights.

II. In the operation of said passenger stage service pursuant to the foregoing certificate, Key System shall comply with and observe the following service regulations:

1. Applicant shall file a written acceptance of the certificate herein granted within thirty (30) days from the effective date hereof.
2. Subject to the authority of this Commission to change or modify such at any time by further order, Key System shall conduct such passenger stage operation over and along the following described route:

Commencing at the intersection of East 14th Street and 47th Avenue, along 47th Avenue to San Leandro Street, along San Leandro Street to 98th Avenue, west on 98th Avenue to the intersection of 98th Avenue and St. Elmo Drive, thence east on 98th Avenue to Pippin Street, along Pippin Street to 105th Avenue, along 105th Avenue to E Street, along E Street to 107th Avenue, along 107th Avenue to Apricot Street, along Apricot Street to San Leandro Boulevard, along San Leandro Boulevard to Davis Street, along Davis Street to East 14th Street, and returning via the reverse of the same route.

- 3. 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.

III. Key System is hereby authorized to abandon passenger stage service concurrently with the establishment of service hereinbefore authorized, upon and along the following streets:

- In San Leandro Street from High Street to 47th Avenue, Oakland
- In San Leandro Street from 98th Avenue to 105th Avenue, "
- In San Leandro Street from 105th Avenue to Apricot Street "

The Commission reserves the right to make such further orders in this proceeding as to it may seem just and proper, and to revoke this authority in whole or in part if in its opinion public convenience and necessity demand such action.

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

Dated at San Francisco, California, this 24th day of May, 1944.

Richard L. Baker
Justus J. Cameron
Francis V. Havener
Ernest W. Olson
Earl H. Russell
Commissioners