

Decision No. RR155

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
E. GUY WARREN, doing business as)
WARREN TRANSPORTATION CO., for a)
certificate of public convenience and)
necessity to operate a passenger)
stage service as a common carrier, in)
Hayward, California, and between)
Hayward and points in the vicinity)
thereof.)

Application No. 26311

In the Matter of the Application of)
KEY SYSTEM, a corporation, for a)
certificate of public convenience and)
necessity to operate certain street)
railway and motor coach routes in the)
Counties of Alameda and Contra Costa,)
State of California.)

Application No. 19502
76th Supplemental

In the Matter of the Application of)
KEY SYSTEM, a corporation, for a)
certificate of public convenience and)
necessity to operate certain street)
railway and motor coach routes in the)
Counties of Alameda and Contra Costa,)
State of California.)

Application No. 19502
81st Supplemental

BEROL & HANDLER by Edward M. Berol and Marvin Handler,
for Warren Transportation Company, Applicant (No. 26311);
DONAHUE, RICHARDS & HAMLIN by Frank S. Richards and
B. M. Bennett, for Key System, Applicant (No. 19502);
DOUGLAS BROOKMAN, for Pacific Greyhound Lines, Protestant
in App. No. 26311; JOHN F. BALAAM, for Peerless Stages,
Inc., Protesting App. No. 26311; C. W. WHITE, City
Attorney, for City of Hayward; DAVID D. BOHANNON,
appearing in the interest of San Lorenzo Village, favor-
ing the Key System application; WALTER BAUMANN for San
Lorenzo Village, favoring Key System application; Francis
A. Nicholas for Friden Calculating Machine Company;
ARTHUR MAGNUSON for Hurley Marin Works, Oakland, favoring
the Key System application; F. A. FRENABLING, Caterpillar
Tractor Company, San Leandro, favoring Key System appli-
cation; N. B. REYNOLDS, representing Chrysler Motor Parts
Company, San Leandro, favoring Key System application;
R. J. McHALE, Moore Dry Dock Company, Foot of Adeline St.,
Oakland, favoring Key System application; LOUISE CRANDALL,
President, Mount Eden Improvement Club, Mount Eden and
Russell City, favoring Warren Transportation Company appli-
cation; P. J. DeBERNARDI, Hayward Acres Improvement Club,
favoring Warren Transportation Company application; ANNA
JOHNSON, Russell City, favoring Warren Transportation Company
application; E. FEFFER, South Hayward Improvement Club,
favoring Warren Transportation Company application; JACK
DUKE, Chief, Hayward Fire Department, favoring Warren

Transportation Company application; ISABEL MARCH, President, Hyland Improvement Club, favoring Warren Transportation Company application; ERIC ROUS, of Hayward, Tennyson Improvement Club, favoring Warren Transportation Company application; CHARLES CAMPBELL, San Lorenzo Village Club, favoring Key System application; MRS. A. PARNAS, Hayward Acres Improvement Club, favoring Warren Transportation Company application; MRS. F. E. WALTON, Hayward Improvement Club, favoring Warren Transportation Company application; MRS. E. GREETTE, Hayward Improvement Club, favoring Warren Transportation Company application; MRS. EMILY F. GARCIA, Fair View Community Club and Fair View Ladies Club, favoring Warren Transportation Company application; MRS. X. DUCAT, Secretary-Treasurer, Hayward Acres Improvement Club, favoring Warren Transportation Company application; MRS. M. A. GUEST, Vice President, Mount Eden Parent Teachers Association, favoring Warren Transportation Company application; MRS. E. H. BARDNIER, President, Sunset Parent Teachers Association, favoring Warren Transportation Company application; MRS. ALIENE S. BROWN, Hayward Acres Improvement Club, Parent Teachers Association, San Lorenzo Ladies Aid, etc., favoring Warren Transportation Company application; MRS. FRED WARFIELD, Mount Eden Needle Craft, favoring Warren Transportation Company application; MRS. M. KOERNER, Hayward Improvement Club and Parent Teachers Association, favoring Warren Transportation Company application; MRS. J. A. COLLINS, Mount Eden, Many Clubs in Mount Eden Community, favoring Warren Transportation Company application; MRS. EMMA SMITH, Hayward Acres Improvement Club, favoring Warren Transportation Company application; FRANCIS WOHLFERTH, Business Woman, Mount Eden Area, favoring Warren Transportation Company application; MRS. R. P. GORHAM, San Lorenzo Village, favoring Key System application; VAL HOLINGSWORTH, President, Hayward Area Chamber of Commerce, President of Castro Valley Improvement Club, favoring Warren Transportation Company application; W. T. WALLACE, Chairman, Federated Improvement Clubs Transportation Committee, favoring Warren Transportation Company application; MRS. TRIVA DUNCAN, property owner, Castro Valley, favoring Key System application; MRS. EARL CULTIN, favoring Warren Transportation Company application; MRS. L. HARTMAN, San Lorenzo Tract, Castro Valley, favoring Warren Transportation Company application; R. M. SCHWARTZ, Mount Eden, favoring Warren Transportation Company application; MRS. MYRTLE JENNINGS, Postmistress, Mount Eden, favoring Warren Transportation Company application; HARRY RIZZO, Secretary, Cannery Workers Union, favoring Warren Transportation Company application; ADOLFE HRAVA, San Lorenzo Village, employee of Albers Brothers Milling Company, Oakland, favoring Key System application; L. C. ROBINSON, President, Tennyson Improvement Club, favoring Warren Transportation Company application; E. C. PETERSON, Mount Eden, Adjutant of Purple Heart Club, favoring Warren Transportation Company application.

BY THE COMMISSION:

O P I N I O N

The proceedings involved herein deal with requests for certificates to conduct a local passenger stage service in, and in the vicinity of, Hayward, California.

The matters were heard on a consolidated record at a number of hearings in Hayward and were submitted subject to submission of concurrent briefs. The parties have filed their briefs and the applications are now ready for decision.

The original of Application No. 26311 was filed August 24, 1944 by E. Guy Warren, doing business as the Warren Transportation Co. For convenience this applicant will hereinafter sometimes be referred to as Warren. An amendment to the original application was filed January 17, 1945. In the application as amended authority is sought to conduct a local passenger stage operation in, and in the vicinity of, the city of Hayward. This service is proposed to be conducted through operation over 6 routes radiating from the business center of Hayward and designated as routes "A" to "F", inclusive. The length of these routes vary from 1.5 to 6.0 miles. The over-all route mileage is 21.0 miles. The proposed fare is 10¢-cash together with the sale of commute tickets, 12 for \$1. It is also proposed to offer a reduced fare for children, i.e., ages 5 to 12 years, 5¢-cash, all school children, 20 commute tickets for \$1; good between the hours of 7:00 a.m. and 4:30 p.m. on school days. All cash and commute fares to carry a free transfer privilege between the various routes proposed. It is applicant's plan to conduct this operation through the use of 5

(1) January 29, February 8, March 15, May 14 and 16, 1945.

transit type buses having a seating capacity of 27 passengers and capable of carrying 20 standees. The peak schedule is to be maintained through the use of 4 buses while the 5th is to be held in reserve to be used in case of an emergency or as a substitute when one of the other buses is undergoing repairs.

The Key System filed its 76th Supplement to Application No. 19502 with this Commission October 18, 1944, wherein authority is sought to augment and revise its routes in the Hayward Area. For convenience this applicant will hereinafter sometimes be referred to as Key. The certificate sought contemplates changes in the Hayward end of Route 81, between the San Lorenzo Village Area and Hayward, also the establishment of a new local route between the business section of Hayward and the Castro Valley Area to the northeast thereof.

The 81st Supplement to Application No. 19502 was filed with the Commission April 26, 1945 by the Key System. Although this amendment was filed subsequent to the original hearing in these proceedings, it was stipulated by the parties and thereafter ordered that it would be consolidated with the other matters under consideration for hearing and determination. In this 81st Supplemental Application, authority is sought to further revise the Hayward end of Route 81 between San Lorenzo Village and the business section of Hayward, to the effect that all operations over Route 81 to be conducted through the business section of San Lorenzo Village, dividing the service to the south of this business section, a portion going over the highway to be constructed across Southern

(2)

Pacific Tracks at Blossom Way and the remainder over "A" Street in Hayward. This plan entails the abandonment of a portion of the present Route 81 between San Lorenzo and Hayward. These proposed routes are to be conducted as part of the Key System operation employing the basic zone fare rate of 10¢-cash or 7 tokens for 50¢. Students under 18-years of age attending school may purchase tickets in blocks of 29 for \$1. Cash, token and ticket patrons are offered free transfers to other lines of this carrier.

Key System now has certificates to operate over portions of the three routes involved herein and now seeks a certificate to cover the remainder of these lines. In general the portions of the routes over which certificates are sought are as follows:

1. Between San Lorenzo Village and Hayward, via Hesperian Boulevard and "A" Street, a distance of approximately 2.6 miles.
2. Between San Lorenzo Village and Hayward, via Hesperian Boulevard and Blossom Way, a distance of approximately 1.8 miles.
3. Between Hayward and Castro Valley, a distance of approximately 2.5 miles.

The portion of Route 81 sought to be abandoned is along Lewelling Boulevard and Meekland Avenue, between the intersection of Lewelling Boulevard and Hesperian Boulevard and the intersection of Meekland Avenue and Blossom Way, a distance of approximately 1.5 miles.

The Hayward Area is essentially a residential and

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- (2) The Commission by its order in Decision No. 37718, dated March 13, 1945, in Application No. 26501, authorized the County of Alameda to construct Blossom Way at grade across Southern Pacific tracks. A plan is under way to extend Blossom Way from the railroad tracks to Hathaway Avenue.

agricultural district with some manufacturing industries and several large canning establishments. The area adjacent to the residential section is given largely to agricultural pursuits, particularly truck gardens and the growing of fruit. The estimated population of the entire Hayward Area, including the San Lorenzo Village, is in excess of 40,000. This district has experienced a substantial growth in population subsequent to the beginning of the present world war. San Lorenzo Village, located some three miles to the northwest of the business center of the city and situated in the unincorporated portion of Alameda County, is the site of a large housing project. The record shows that over 1,300 houses have been constructed in this Area during the past year which are now practically all occupied. This development includes a large shopping and amusement center in the vicinity of the intersection of Paseo Grande and Hesperian Boulevard.

In addition to the Key service in the Hayward Area, both the Pacific Greyhound Lines and Peerless Stages, Incorporated, operate through this district. While the latter two carriers are essentially interurban operators, they have certain local rights in the Hayward Area which to some extent would be competitive with the operation by Warren if it were established as proposed. In the case of the Peerless operation, the duplication referred to is along Mt. Eden Road between Mt. Eden and the city limits of Hayward, and along Castro Street between Harder Road and the city limits of Hayward, in connection with its San Jose-Oakland operation, with 4 round-trip schedules daily on the route via Mt. Eden Road and 20 schedules via Castro Street. The Greyhound local operations involved are along "B" Street in the city of Hayward with some 44 round-trip schedules per day, and along Castro Valley Boulevard in Alameda County with 25 round-trip schedules per day. Both of these

carriers opposed the granting of the Warren application.

The record will be discussed in the order of the presentation by applicants to the effect that testimony in support of the Warren application was the first to be offered.

Testimony in Support of Application No. 26311 (Warren)

The record shows that this proposed operation is to be owned and controlled by E. Guy Warren and is to be conducted under the name of the Warren Transportation Co.

A consulting engineer employed by Warren testified that he had made a study of the proposed operation and presented his report which was received as Exhibit No. 3. In this report he sets forth in detail the proposed routes, service, equipment and fares.

In general, the six routes are designed to serve the developed portion of the Hayward Area all radiating from the business section of the city. Approximately one-half of the proposed routes are situated outside the city of Hayward in the unincorporated portion of Alameda County. The base headway on the four main routes "A" to "D", inclusive, vary from 40 to 50 minutes, while routes "E" and "F" are designed for 7 and 8 round-trip schedules, respectively, per day. The schedule calls for the operation of 653 bus miles and 61 bus hours per day. It is estimated that the gross annual revenue from the bus operation will amount to \$79,200, while the operating expense is estimated at \$65,666, with an operating ratio of 82.8. The engineer further estimated that this system would carry approximately 880,000 fare

passengers per year. These estimates were based largely upon the information offered by residents of the district in response to a questionnaire furnished them by applicant, together with a comparison of the operating results of other local transportation agencies in the state in alleged comparable sized cities and conditions with respect to the public transportation problem.

Mr. Warren has in the past conducted a substantial for-hire trucking operation with headquarters at Hayward. The proposed passenger stage operation planned is to be conducted in connection with the trucking operation. The five new buses of a transit type to be purchased from Mr. Gillig of Hayward are to be maintained in the same garage as Mr. Warren's trucks. In fact, there will be an interlocking management between the two operations.

The record indicates that Mr. Warren is financially able to carry out his proposed plan as outlined in this application, having a net worth of approximately \$235,000. In addition to the trucking operation, Mr. Warren has other assets including two ranches together with his home and personal property.

The public support for the granting of this application centers largely around the contention that Hayward is now a substantial community and justifies a complete local transportation service. Many public witnesses testified, urging the granting of this application on the ground that, in their opinion, public convenience and necessity require adequate local transportation

(3)
which is not now provided. Particular reference is made to testimony introduced by representatives of the city of Hayward, Hayward Planning Commission, Superintendent of the Recreation in the city of Hayward, District Superintendent of Hayward Union High School, and the Manager U. S. Employment Service at Hayward. The Hayward City Council passed a resolution endorsing the granting of the Warren application. In addition to the representatives from public bodies, a number of witnesses testified representing Chambers of Commerce, civic and service clubs, manufacturing and business establishments in the Hayward Area, as well as a number of private parties appearing in their own behalf. While this testimony ran largely to the need of a local transportation service such as is proposed by Warren, most of the witnesses stated that in addition to the local service, there was some need for a through service between Hayward and the metropolitan area of San Francisco and Oakland to the northwest. Although Warren offered to establish a transfer arrangement with the Key System between the lines he proposes to operate and those of the Key, which serves the metropolitan area to the northwest, this offer was declined by the Key System.

(3) Public witnesses called in behalf of:

City of Hayward,
Hayward Planning Commission,
Superintendent of the Recreation in the city of Hayward,
Manager U. S. Employment Service at Hayward,
District Superintendent of Hayward Union High School,
Personnel Manager of Hunt Bros. Packing Company,
Secretary of the Cannery Workers' Union No. 20843,
Owner and Operator of the Home for Crippled & Afflicted
Children in the Hayward Area,
Personnel Manager California Conserving Company,
Foreman of the Gillig Bros. Motor Coach Company,
Principal of the Ashland School,
President of the Tennyson Improvement Club,
President of Hayward Acres Improvement Club, and
A number of different residents of the area proposed to
be served.

In the record and brief, attorney for Warren stressed the fact that his client was the first to make application for expanding local service in the Hayward Area, and that the Key awaited until it was confronted with the Warren application before it proceeded to seek authority to expand its service in that area.

At the conclusion of the hearing, Mr. Warren testified that, in his opinion, his proposed operation could be conducted at a profit only if given the exclusive right to handle all the local passengers in the Hayward Area over and above the right the Key now holds on its present lines serving that area. In other words, if the Key is granted a right to reroute its Line 81 and carry local passengers between San Lorenzo Village and Hayward, and/or establish a local service between the business center of Hayward and the Castro Valley as proposed herein, Mr. Warren does not desire to proceed with his application if granted⁽⁴⁾. While he is opposed to any augmented local service in the Hayward Area by the Key, he is not opposed to that carrier improving its service between the Hayward Area and points to the north thereof, which include the Oakland and San Francisco Areas. Warren stated that he had not to date made application to the Office of Defense Transportation

(4) "Q. (Attorney for Warren) In order that the record will be clear about your position on the Key System application now being heard, Mr. Warren. Do you think it would be possible for you to operate this bus system which you propose if the Key System were likewise granted a certificate?"

"A. (Warren) No. We would not want it under those conditions."
(Tr. p. 654, line 10 to 15, inclusive)

"Q. (Examiner Hunter) Then you think you must, in order to make this a successful operation, have all the traffic to and from Castro Valley that is not now carried by the Key System and also all the traffic to and from San Lorenzo Village into Hayward."

"A. (Warren) Yes. I feel that way."
(Tr. p. 656, line 11 to 15, inclusive)

for a certificate of war necessity to conduct the proposed operation if authorized by this Commission, but on the other hand takes the position that the proper procedure is to first obtain authority from this Commission before contacting the Office of Defense Transportation.

Testimony in Support of Application No. 19502
76th & 81st Suppl. (Key System)

A consulting engineer employed by the Key testified that, in his opinion, the estimate with respect to revenue presented by the engineer for Warren was optimistic and could not be realized even under wartime conditions, and looking ahead, such revenues are bound to decrease materially with the decline of activities which have been occasioned by the wartime conditions. It is his contention that the estimated revenue by Warren's engineer is excessive due to the fact that it is based to some extent on results of other carriers operating in districts where the conditions are more favorable with respect to potential traffic for a common carrier than obtains in the Hayward Area. Particular reference was made to Palo Alto and San Mateo. He also showed that the Key had a number of lines which did not pay the cost of providing the service and which served territory that should be as productive or more so than the Hayward district. He also testified that if the service proposed by the Key was established it would, in his opinion, reasonably meet public convenience and necessity for local transportation in the Hayward Area. This is based on the

(5) "Q. (Attorney for Key) Mr. Butler, will you state briefly your final conclusions as to the need for additional service in the Hayward territory."

(Continued)

assumption that the only two areas that can reasonably justify a local transportation service are the Castro Valley and San Lorenzo Village, and that the service proposed by the Key for these two areas was superior to that of the Warren plan due to the more frequent operation. It was his further opinion that it would be adverse to public interest to establish a local transportation system which of necessity would have to be abandoned after the war due to the fact that it could not be continued on a profitable basis. Furthermore, he stated that the Key was in a much better position to adjust schedules to meet traffic demands than was Warren. He produced the results of certain traffic checks on the Key System that shows that the predominance of traffic in the Hayward Area is through service to the north as contrasted to local; therefore, he contends that the public would be much better served by having a unified transportation system with a single carrier offering a universal transfer privilege. It was pointed out that this plan would result in a saving of bus miles as well as affording cheaper transportation to the public.

The president of the Key System testified that he was ready, willing and able to provide all the local service that could

(5) Continued -

"A. (Butler) In my opinion, if the Key's application is granted the rerouting proposed, and which I have described, for San Lorenzo Village and Hayward will make further service at this time unnecessary. The rerouting will fully service the needs of that territory. As to the Castro Valley, I am doubtful whether the additional service proposed is justified at this time; and that statement applies to the service proposed both by Key and the Warren Transportation Company. As to the other routes proposed by Mr. Warren, in my opinion, they are not justified by public convenience and necessity and, if placed in operation, will show such large margins of cost over revenues that they will be continued for a very short period only and then of necessity will be abandoned." (Tr. p. 545, line 26, to p. 546, line 16, inclusive)

be justified in the Hayward Area as part of the Key operation, with the same full transfer privileges that are now offered to any other comparable portion of the system. He stated that he had been in touch with this situation and it was the policy of the company to provide the district all the service that could be justified within the limits of the facilities available, particularly under wartime conditions. It is his contention that only subsequent to the beginning of the war has there been a justification for added local service in the Hayward district and particularly since the development of the San Lorenzo Village. He presented a letter from the Regional Director of the Office of Defense Transportation, under date of February 1, 1945, wherein he is advised that if the California Railroad Commission issues a certificate of convenience and necessity, "we will issue Certificate of War Necessity in support of your added responsibilities." (Exhibit No. 20) He stated that due to handicaps incident to operating under wartime conditions with the attending manpower shortage and lack of equipment and facilities, the company was not able to provide as good a service as it desired or would offer under normal conditions, and that it was the objective of the management to improve the service as fast as conditions permit. The record shows that the company was now acquiring a considerable number of new buses which would permit of certain improvements in the service. It is his contention that the low standard of service is not peculiar to the operation of the Key System, but is common throughout the United States under prevailing conditions.

(6) "I desire to make it very definite that Key System is ready, able and willing to perform any and all service in this area which this Commission may find is required by public convenience and necessity, provided that the Office of Defense Transportation is willing, under existing circumstances, to grant the necessary certificate of war necessity."
(Tr. p. 457, line 2 to 8, inclusive)

Key System called a number of public witnesses in support of the granting of their application. (7) These witnesses, for the most part, represented industry affected by public transportation in the Hayward Area and spoke in behalf of employees traveling from their homes to places of employment and shopping. The president of the Greenwood Corporation, which developed the San Lorenzo Village and still holds a substantial interest in that property, testified that he was supporting the granting of the Key application rather than the Warren application due to the fact that the Key service would be far superior to that of the Warren in meeting public convenience and necessity of the residents of that district. His conclusions in this respect, so he stated, were based upon a study of the residents of the San Lorenzo Village where there are over 1,300 houses built and occupied, with a population of approximately 6,000. It is his contention that in view of the fact, that under the ultimate plan of development, the San Lorenzo Village will have a rather complete shopping and amusement center, and with these facilities in operation, there will be little need for local bus transportation between San Lorenzo Village and the city of Hayward. (8)

(7) Public witnesses called in behalf of:

Greenwood Corporation (San Lorenzo Village),
Chrysler Motors in San Leandro,
Friden Calculating Machine Company in San Leandro,
Caterpillar Tractor Company in San Leandro,
A Nursery in Castro Valley,
Moore Dry Dock Company,
A Realtor in Castro Valley,
And several residents in the area proposed to be served.

(8) "The San Lorenzo Village development has created a truly serious transportation problem: We have approximately 6000 people concentrated there and, as you know, they are war workers. We have checked our records to ascertain where these people are employed. We find that 99-1/2 per cent plus of the total working population there are in the East Bay industries, approximately 200 various industries, and that about one-half per cent of those people are employed in Hayward. Our problem is to get those people to work. The reason we favor the Key System application is that it obviously takes these people to this widespread employment. Moreover, any increase of cost in transportation would be a burden." (Tr. p. 32, line 20, to p. 33, line 7, inclusive)

With reference to the Key's proposal to reroute its No. 81 motor coach line through the San Lorenzo Village, and coincident therewith to abandon a portion of the present route along Lewelling Boulevard and Meekland Avenue between Hesperian Boulevard and Blossom Way, a distance of a mile and a half, the record shows that the area adjacent to the portion of the route proposed to be abandoned is a residential section which is sparsely settled except in the vicinity of Blossom Way. Under the plan of rerouting practically all of the residents now served by the abandoned section of the line will be within one-half mile of the new line if established as proposed herein. As contrasted to public transportation to this sparsely settled area along the portion of the line proposed for abandonment, the new line will serve the recently developed San Lorenzo Village area where over 1,300 homes have been established during the past year.

Testimony Introduced by the Commission's Staff

The Commission's transportation engineer testified that he had made a survey of the district and prepared a report which was introduced as Exhibit No. 1 in this proceeding. In this report there is set forth a proposed augmented local transportation plan for the Hayward Area. This plan consists of two routes, one between San Lorenzo Village and Hayward, and the other between the business center of Hayward and Castro Valley. Service over these two routes are proposed in the plan presented by both the Warren and Key applications. As to the four additional routes proposed in the Warren application, the Commission's engineer testified that, in his opinion, the areas through which these routes traverse have not developed to a point where they will support public transportation on an enduring basis.

Conclusions and Findings

It is apparent from this record that public convenience and necessity demands improvement of the local transportation service in the Hayward Area. It is further apparent that such local service is most urgently needed between Hayward and San Lorenzo Village and to lesser extent between Hayward and Castro Valley. Both applicants seek authority to provide local service to these areas. The record clearly indicates that if both carriers are authorized to provide local service to these two heaviest populated areas, the entire Warren System as proposed could not be conducted at a profit. In fact, Mr. Warren has stated that if the Key is authorized to expand its local service in the Hayward Area as proposed herein he would not exercise the certificate he seeks if granted by the Commission. The Key System now has a rather limited but unrestricted service in both the San Lorenzo and Castro Valley Areas. With respect to the San Lorenzo Village, the Key System's Route 81 now passes within about one-half mile of the center of this development with full local rights over the entire route. In this application it proposes to reroute this line through the business center of this development primarily to afford better service to this recently developed district. It would seem improper to deny the proposed rerouting on this record, and if granted, to restrict the Key from carrying local passengers on this line between the Village and Hayward would be adverse to public interest. This is particularly true when it is considered that the Key System provides transportation to the entire East Bay Area with full transfer privileges to the various lines of the system. With respect to the proposed service to the Castro Valley, the showing by the Key is based upon a 30 minute headway as contrasted to

45 offered by Warren. From the public standpoint the more frequent service is desirable. The Key has the further public advantage of offering a free transfer privilege to its patrons to other connecting lines of its system.

Upon this record, it is concluded that the Key application should be granted. It should not be assumed that this conclusion is based to any considerable extent upon the carrier's offer to provide such service as the Commission directs. On the other hand, we wish to announce that it is the obligation of the Key System and all other passenger stage operators in this State to provide reasonable and adequate service to the public within the limits of their ability to perform and not wait for the Commission to direct it to extend its service where conditions warrant.

In view of the fact that Mr. Warren takes the position that if the Key application is granted he does not desire to exercise the certificate he seeks if granted, it would seem that, if for no other reason, his application should be denied. The denial of this application is further supported by the fact that the record shows with the Key providing local service between Hayward and both San Lorenzo Village and Castro Valley, the Warren operation could not within the reasonably near future be conducted at a profit. Therefore, it would be adverse to the public interest to establish a local service to a community which, in all probability, could not be conducted on an enduring basis. It would be unfortunate not only for the carrier to establish such a service and later abandon it, but it would doubtless work a hardship on many of the residents of the area who had purchased property or made improvements on the assumption that they would be provided with such local transportation in the future.

In reaching this conclusion, it is the Commission's intention to keep in close touch with the local transportation situation in the Hayward Area, and if conditions appear to warrant this matter will be reviewed again at an appropriate time in the future.

Key System 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 grant 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.

ORDER

Public hearings having been held in the above-entitled matters, the Commission finds upon this record that the Key System applications should be granted and the application of E. Guy Warren should be denied; therefore,

IT IS HEREBY ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to the Key System, a corporation, authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 24 of the Public Utilities Act, as

an extension and enlargement of its present operative rights and consolidated therewith, for the transportation of passengers over land along the following routes in and in the vicinity of Hayward, California:

- a. Along Hesperian Boulevard from Lewelling Boulevard to "A" Street;
- b. Along "A" Street from Hesperian Boulevard to Meekland Avenue;
- c. Along "A" Street from Castro Street to Foothill Boulevard;
- d. Along Mattox Road from Foothill Boulevard to Castro Valley Boulevard;
- e. Along Redwood Road from Castro Valley Boulevard to Strobridge Avenue;
- f. Along Strobridge Avenue from Redwood Road to Orchard Avenue;
- g. Along Orchard Avenue from Strobridge Avenue to Laurel Avenue;
- h. Along Laurel Avenue from Orchard Avenue to Redwood Road;
- i. Along Redwood Road from Laurel Avenue to "A" Street;
- j. Along "A" Street from Redwood Road to Third Street;
- k. Along Third Street from "A" Street to "B" Street;
- l. Along Hathaway Avenue from Hesperian Boulevard to Blossom Way;
- m. Along Blossom Way from Hathaway Avenue to Meekland Avenue;
- n. Along Watkins Street from "A" Street to "B" Street;
- o. Along "B" Street from Watkins Street to Castro Street.

In providing service pursuant to the foregoing certificate the following service regulations shall be complied with:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
2. Applicant shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than 1 day's notice to the Commission and the public.

(2) That Key System is authorized to abandon operations over that portion of the No. 81 motor coach line as follows:

From the intersection of Lewelling and Hesperian
Boulevards in San Lorenzo along Lewelling Boulevard
to Meekland Avenue, along Meekland Avenue to Blossom
Way.

Coincident with said abandonment the certificate to operate over
this portion of the No. 81 motor coach line, as authorized in
Decision No. 28522, dated January 27, 1936, is revoked and of no
further force and effect.

Applicant shall give not less than 10 days' notice to the
public of said abandonment of service by posting notices in all
buses operated over this portion of Route 81 during this 10 day
period.

(3) That Application No. 26311 is denied.

The effective date of this order shall be twenty (20) days
from the date hereof.

Dated at San Francisco, California, this 14th
day of August, 1945.

A. Howard Rudman
Justice F. O'Connell
Richard Backus
Wm. W. Elmer
Irving Howell
COMMISSIONERS