

Decision No. 38738

ORIGINAL

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) 87th Supplemental
Coach Routes in the Counties of Alameda)
and Contra Costa, State of California.)

O P I N I O N

In this supplemental application Key System requests permission to abandon its No. 16 - 38th Avenue street car line operating along 38th Avenue between East 14th Street and MacArthur Boulevard in the City of Oakland and to substitute therefor motor coach service upon and along the same route. (1)

Applicant alleges that the track on 38th Avenue is in such poor condition that it needs to be entirely renewed if rail operation is to be continued. With the removal of the tracks and the establishment of motor coach service on 38th Avenue this avenue can be paved and become a good artery for all vehicular traffic.

It appears that this is not a matter in which a public hearing is necessary and that the 87th 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

(1) It is proposed to combine the operation of its No. 54 motor coach line on 35th Avenue with the proposed route on 38th Avenue. The combined route is as follows: From the intersection of 38th Avenue and MacArthur Boulevard, along 38th Avenue to East 14th Street, along East 14th Street to 35th Avenue, along 35th Avenue to Redwood Road, along Redwood Road to Mountain Boulevard, along Mountain Boulevard to Anderson Avenue.

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.

O R D E R

IT IS HEREBY ORDERED, that:

I. A certificate of public convenience and necessity is hereby granted to Key System, a corporation, authorizing the establishment and operation of service as a passenger stage corporation, as that term is defined in Section 24 of the Public Utilities Act, for the transportation of passengers within the City of Oakland, Alameda County, as an extension and enlargement of its present operative rights and consolidated therewith, upon and along the following described route:

Upon and along 38th Avenue between its intersection with East 14th Street and its intersection with MacArthur Boulevard in the City of Oakland.

subject to the following conditions:

- (1) The service herein authorized shall be commenced within a period of not to exceed ninety (90) days from the date hereof.
- (2) Such service shall be commenced concurrently with the abandonment of street car service as herein-after authorized.
- (3) Applicant shall file a written acceptance of the certificate herein granted within thirty (30) days from the effective date hereof.

II. Key System is hereby authorized to discontinue street car service along 38th Avenue between East 14th Street and MacArthur Boulevard in the City of Oakland, and to remove its tracks and appurtenances thereto, subject to the following conditions:

- (1) The discontinuance of street car service shall become effective concurrently with the establishment of passenger stage service as hereinbefore authorized.

- (2) Applicant shall give at least five (5) day's notice to the public of the proposed change by conspicuously posting proper notice in all of its street railway cars operated on its No. 16 line.

The Commission reserves the right to make such further orders in this proceeding as to it may seem just and proper, and revoke its 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 5th day of March, 1946.

David Rubin
Francis C. ...
James D. ...
Harold P. ...
 COMMISSIONERS