

ORIGINAL

Decision No. 41652

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 KEY SYSTEM TRANSIT LINES for authority )  
 to substitute motor coaches for its )  
 Nos. 10 Piedmont Avenue, 11 Oakland ) Application No. 29172  
 Avenue, and 12 Grand Avenue - 16th )  
 Street Rail Transit Lines, all in the )  
 County of Alameda, State of California.)

DONAHUE, RICHARDS, ROWELL & GALLAGHER by FRANK S.  
 RICHARDS, for applicant.  
 JOHN W. COLLIER, City Attorney of Oakland, and ARCHER  
 BOWDEN, Assistant City Attorney of Oakland,  
 protestant.  
 J. MARCUS HARDIN, City Attorney of Piedmont, interested  
 party.  
 ROWAN GAITHER, interested party.  
 MRS. PALMER FIELD, interested party.

O P I N I O N

In this proceeding Key System Transit Lines requests authority to discontinue street railroad service within and between the Cities of Oakland and Piedmont on its No. 10 - Piedmont Avenue, No. 11 - Oakland Avenue and No. 12 - Grand Avenue-16th Street (1) rail lines, and to abandon certain street railroad tracks, roadway

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(1) The street railroad lines proposed to be abandoned operate as follows:

The No. 10-Piedmont Avenue rail line is operated from Crocker Avenue in the vicinity of Hampton Road in the City of Piedmont along a private right of way, Highland Avenue, private right of way, Piedmont Avenue and Broadway to 9th Street in Oakland where a loop is made over 9th Street, Franklin Street and 8th Street to Broadway.

The No. 11-Oakland Avenue rail line is operated from 8th Street and Broadway in the City of Oakland along Broadway, 24th Street, Harrison Street, private right of way, Oakland Avenue, private right of way and Linda Avenue to Piedmont Avenue.

The No. 12-Grand Avenue-16th Street rail line is operated from Oakland Avenue and Fairview Avenue in the City of Piedmont along Fairview Avenue, Grand Avenue, Webster Street, 14th Street, Market Street, 16th Street to the Southern Pacific Railroad Station near Wood Street in the City of Oakland.

(2)  
and electrical overhead used in connection therewith. It also seeks a certificate to establish motor coach service in the place and stead of the rail service with extensions into territory not presently provided with public transportation.

A public hearing was had before Examiner Paul at Piedmont on March 31, 1948, and the matter was submitted subject to the filing of briefs which have been received.

In general the proposed service would follow the present rail routes. An extension of 6/10 of a mile beyond Crocker Avenue in Piedmont would be established and a new service would be provided along Oakland Avenue in Piedmont between Linda Avenue and Highland Avenue. Motor coach service would be operated over Moraga Road and Highland Avenue, and on parts of Oakland and Linda Avenues in Piedmont over which there is no present operation. Moraga Road roughly parallels the No. 10 rail line at a distance of about 600 feet. Motor coach operation is proposed over 14th Street in Oakland between Market Street and Wood Street which is two blocks from the present route of operation of the No. 12-16th Street rail line which applicant desires to abandon.

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(2) The street railroad tracks, roadway and electrical overhead proposed to be abandoned are along the following streets:

From 15th Street and Broadway, via Broadway and Piedmont Avenue to 41st Street in the City of Oakland. By private right of way from Manor Drive to Highland Avenue, Highland Avenue and private right of way to Crocker Avenue in the City of Piedmont.

From 24th Street and Broadway, 24th Street, Harrison Street, private right of way, Oakland Avenue, private right of way and Linda Avenue to Piedmont Avenue, in the Cities of Oakland and Piedmont.

From MacArthur Boulevard and Grand Avenue, via Grand Avenue and Fairview Avenue to Oakland Avenue, in the City of Piedmont.

From Southern Pacific Station in the vicinity of Wood Street, via 16th Street to Market Street, Market Street from 16th to 14th Streets, 14th Street from Market Street to Webster Street, Webster Street to Grand Avenue, in the City of Oakland.

Applicant presently operates its No. 42 and No. 42-A motor coach lines between the United States Naval Air Station and a housing project in Alameda, and 22nd Street and Broadway in Oakland. It plans to extend these lines to Piedmont along Broadway, Piedmont Avenue, Moraga Road and Highland Avenue. This would provide a through service between Piedmont and those points in Alameda and would obviate turning movements in congested traffic areas in Oakland.

The record shows that applicant has 16 new units of automotive equipment which would be used to establish the proposed service. The fares, rules and regulations which apply to applicant's present operations would be applicable to the proposed motor coach operations.

An objection was expressed by some of the local residents of Piedmont to applicant's proposal to use the Moraga Road-Highland Avenue route. Other routes were suggested. However, a tentative agreement had been reached by and between applicant and the City Council of the City of Piedmont whereby it was determined that applicant's proposed Moraga Road-Highland Avenue route, from the viewpoint of adequacy of service and safety of operation, is the best feasible route at this time. Use of this route and the proposed new route over Oakland Avenue in Piedmont would make local service available to residents of the area now served by the No. 10 rail line with walking distances as great as approximately 1,100 feet in a small portion of the area only. The personnel manager of an industry located on 16th Street in Oakland stated that the employees of such industry had expressed dissatisfaction with the proposal of applicant to operate buses over 14th Street instead of 16th Street where street car service is presently provided, as it would require such employees to walk two blocks to obtain transportation.

No other objection was raised to the proposed routing over 14th Street. If the existing rail service is to be discontinued, it appears that the proposed bus routing will not require any patron to walk an unreasonable distance, and the record does not indicate that another route would better serve the convenience of all.

Applicant produced evidence to the effect that it is suffering a considerable financial loss from its present combined rail and motor coach local operations; that conversion to motor coaches with local extensions of service as proposed would enable it to render a more frequent and faster service at a lower cost, to effect substantial economies of operation and increase its revenues. Evidence was also produced to show that applicant must exercise every possible economy consistent with good service and reasonably low fares; that under its proposal it could render service with a lower capital investment in automotive equipment than in street car equipment and substantially improve its financial position.

The City of Piedmont, after reaching a tentative agreement with applicant with respect to the Moraga Road route, was in full accord with applicant's proposal to substitute motor coach service for its rail service and to discontinue all local rail service and abandon all facilities used in connection therewith.

The position taken by the City of Oakland is substantially the same as that taken in a recent application involving this applicant in which the Commission rendered Decision No. 41306 in 110th Supplemental Application No. 19502. In that proceeding, as well as this matter, the City of Oakland requested that any authorization to substitute motor coach service be on a temporary trial basis for a period of one year, with retention of overhead structures

in place, and the inclusion of a condition requiring Key System to obtain a franchise from the City. In this application, the City also requests the Commission to find that Key System is conducting operations as a "street railroad corporation", as defined in Section 2(h) of the Public Utilities Act. It further requests the Commission to impose a condition upon applicant that it first enter into a contract with the City covering the removal of the rails and repavement of that portion of the streets from which the rails are removed.

The City of Oakland does not object to applicant's plan to abandon local rail service. The Commission is justified, therefore, in authorizing the substitution of motor coach service on a trial basis for one year, as the City requests, with the requirement that the overhead structures within the City of Oakland be retained in place. The City claims, as it did in the earlier application, that Key System should first be required to secure a franchise, and the question is raised as to whether the Commission should issue a certificate to operate buses as a "passenger stage corporation" or as a "street railroad corporation". As these questions are before the Commission on a petition for rehearing of Decision No. 41306, the authority herein given to operate motor buses as a "passenger stage corporation" should not be taken as a determination of the issues raised on the rehearing of Decision No. 41306.

As to the request of the City of Oakland that the Commission require Key System first to enter into a contract covering the removal of the rails and the repaving of the streets, the record shows that Key System acknowledges its duty and declares its intention to repave the streets upon the removal of the rail facilities. The City contends, however, that the Commission should so condition its order as to require Key System to first enter

into a specific agreement as to the time within which the work shall be done and the quality of the pavement installed. This Commission is convinced that it does not possess authority to impose the condition which the City requests.

After a full consideration of all the facts of record, it appears that under applicant's proposal it will be able to provide a faster, more frequent and efficient service at less cost than is entailed under its present method of local rail operation on the lines involved. This record also shows that applicant will be able to derive additional needed revenue from the extensions and new routings proposed, all of which should improve its earning position. It is our conclusion, and we find, that public convenience and necessity require the abandonment of the street railroad service on its No. 10, No. 11 and No. 12 street railroad lines and concurrently therewith the establishment of passenger stage service as proposed herein, provided, however, that such passenger stage service on these lines should be established on a trial basis for a one-year period subject to further order of the Commission, and that during such period the overhead electric facilities should not be removed or abandoned within the corporate boundaries of the City of Oakland.

The Commission will grant a certificate over the streets only where needed to enable applicant in conjunction with its present certificates to establish the passenger stage service over the routes as proposed.

O R D E R

An application therefor having been filed, a public hearing held thereon, the matter duly submitted, the Commission being fully informed therein and it having been found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That Key System Transit Lines may discontinue and abandon street railroad service on its No. 10 - Piedmont Avenue, No. 11 - Oakland Avenue and No. 12 - Grand Avenue-16th Street rail lines in the Cities of Oakland and Piedmont subject to the following conditions:

- a. That upon abandonment of street railroad facilities applicant shall not abandon nor, for the period of one year from the effective date hereof, remove poles and overhead structures used in connection with the operation of its No. 10, No. 11 and No. 12 street railroad lines, within the City of Oakland, said poles and overhead structures to be maintained in a safe condition,
- b. That the abandonment of said street railroad service shall be made effective concurrently with the establishment of passenger stage service as authorized in paragraph (2) of this order.

(2) That there is hereby granted as an extension of and combined and consolidated with applicant's present certificates permitting passenger stage service between Oakland, Piedmont, Berkeley, Emeryville, Albany, El Cerrito, Richmond, Alameda, San Leandro, Hayward and all points intermediate thereto, a certificate of public convenience and necessity to Key System Transit Lines authorizing the establishment and operation of a service as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, between all points on and over and along the following streets in the Cities of Oakland and Piedmont:

- a. Along Broadway between First Street and 10th Street.
- b. Along 14th Street between Wood Street and Cypress Street.
- c. Along Webster Street between 14th Street and Grand Avenue.
- d. Along Grand Avenue and Linda Avenue between MacArthur Boulevard and Piedmont Avenue.
- e. Along Piedmont Avenue, Pleasant Valley Avenue, Moraga Road between Broadway (Oakland) and Highland Avenue (Piedmont).
- f. Beginning at the junction of Moraga Road and Highland Avenue (Piedmont) thence along Highland Avenue, Sheridan Avenue, Lincoln Avenue, Crocker Avenue to Wildwood Avenue, Hampton Road, La Salle Avenue, St. James Extension to its junction with Hampton Road.
- g. Beginning at 24th Street and Broadway (Oakland), thence along 24th Street, Harrison Street and Oakland Avenue to Highland Avenue (Piedmont).
- h. Applicant may turn its motor vehicles at termini or intermediate points either in the intersection of the street or by operating around a block in either direction contiguous to such intersection.

This certificate, insofar as it authorizes passenger stage service over and along those streets on which the No. 10, No. 11 and No. 12 street railroad lines now operate, is granted upon the condition that said passenger stage service shall be on a trial basis for a period of one year only unless extended or otherwise modified by further order of the Commission.

(3) That on or after the effective date hereof and not to exceed 20 days thereafter, applicant shall file an acceptance of the certificate herein granted.

(4) That applicant shall establish the passenger stage service herein authorized not later than 60 days after the effective date hereof, and shall comply with the provisions of General Order No. 79 by filing in triplicate appropriate tariffs on or after the effective date hereof which may be made effective on not less than



five days' notice to the Commission and the public.

This order shall be effective 20 days from the date hereof.

Dated at <sup>S.F.</sup> San Francisco, California, this <sup>25</sup> 25<sup>th</sup>  
day of May, 1948.

R. F. Montgomery  
Justin F. Casper  
Chas. L. Quinn  
Harold K. Kula  
Kenneth Potter  
 COMMISSIONERS