

Decision No. 44117

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BAY AREA TRANSPORTATION LEAGUE, INC.,)
 Complainant,)
 vs.)
 KEY SYSTEM TRANSIT LINES, INC.,)
 Defendant.)

Cases 5085, 5090, 5094,
5107, 5118, 5128

ROBERT B. RIVER, for Complainant.

FRANK S. RICHARDS and GEORGE THOMAS, for Defendant.

OPINION AND ORDER

The six complaints against Key System Transit Lines, as above numbered, were filed by Bay Area Transportation League, over the signature of its Secretary, Robert B. River, between May 21, 1949 and September 23, 1949. Amended complaints were filed in the first three matters listed.

Notice was issued by the Commission on March 23, 1950, of a hearing to be held upon these complaints in Oakland, on April 10, 1950. At the outset of such hearing there was read into the record a letter from the complainant, received by the Commission on April 7, 1950, asking that the hearing be continued to a later date. The letter stated that in none of the matters had a copy of defendant's answer been served upon complainant, and that inasmuch as the data originally assembled for presentation in support of the complaints is now out of date, at least three weeks would be needed for preparation after the receipt of defendant's answers. The facts then developed reveal that defendant had filed its formal answer with the Commission in each case, the last being filed on December 13, 1949, but that only in Case 5085 had a copy of the answer been served upon complainant as required by the Commission's procedural rules.

Under the circumstances thus presented, the presiding Commissioner took the request for a continuance under advisement. However, complainant was asked to explain generally the nature of the relief being sought in each of the complaints and also the extent of the evidence which would be introduced should the matters be continued. In response, it was conceded by Mr. River that although the complaints filed were intended to raise issues deemed timely when filed, it would now be an idle act to present evidence with respect to much of the subject matter incorporated in the several pleadings. He concluded by stating that he was willing to have certain of the complaints dismissed, and would leave it to the Commission's determination whether all of them should now be dismissed.

We need not here review the allegations and the prayer for relief stated in each complaint. It will be sufficient to observe that all but one pleads generally either that the service rendered by Key System is inadequate or that the rates charged are unreasonable. In Case 5090 it is alleged that defendant violates a provision of law claimed to require the transportation of U. S. Mail Carriers without charge. It is clear that the statutory provision cited is not directed to this Commission and has no bearing upon its regulatory authority. Mr. River stated that his purpose in filing that pleading was to deter the City of Oakland from granting a franchise to Key System.

In so far as the complaints seek to bring in issue the question of inadequate service and unreasonable rates, the same issues were fully presented to the Commission in several other proceedings which at the time these complaints were filed, had recently been decided or were then under consideration. Complainant's Case 5085 relates only to the adequacy of service on the "A Line" transbay operation. The question of needed rail and bus service on that line or route recently came before the Commission in another proceeding, and at the hearing had in that proceeding an appearance was made by complainant but no evidence was offered. There is now pending an application by Key System for an increase in its local bus fares. Complainant's pleading in Case 5107 alleges

generally that the rates charged by Key System are unreasonably high, and it was stated by Mr. River that this complaint was intended to bring in issue the reasonableness of all rates, both for local service and transbay service.

It is the Commission's opinion that all of the complaints other than Case 5107 should now be dismissed, and that complainant be accorded an opportunity to amend its pleading in this case by stating specifically what rates are intended to be brought in issue and to allege specifically wherein such rates are deemed unreasonable. If the complainant elects to so amend, the Commission will then be in a position to determine the scope of the rate issues that will come before it in pending matters.

Therefore, after fully considering each of the above mentioned complaints filed by Bay Area Transportation League, and the statements made by Mr. River at the hearing held thereon, and for the reasons above indicated,

IT IS HEREBY ORDERED that all of said complaints other than that docketed as Case 5107 be and hereby are dismissed, and that complainant have thirty (30) days from the date of this order to file an amended complaint in said Case 5107.

Dated at San Francisco, California, this 2nd day of May, 1950.

A. F. Anderson

Joseph P. ...

Harold ...

Herbert W. ...

Commissioners.

Commissioner Justus E. Craomer, being necessarily absent, did not participate in the disposition of this proceeding.