

ORIGINALDecision No. 49685

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BENINGER TRANSPORTATION SERVICE, INC.,)
 for authority to abandon certain)
 passenger stage operations in Contra)
 Costa County.)

Application No. 34329

In the Matter of the Application of)
 BENINGER TRANSPORTATION SERVICE, INC.,)
 for authority to remove a restriction)
 on a certificate of public convenience)
 and necessity; to reroute and extend)
 East Richmond Heights Line.)

Application No. 34559

Marquam C. George, for applicant.
Thomas M. Carlson, City Attorney of
 Richmond by Frederick Bold, Jr.,
 interested party.
 Wayne Thompson, City Manager, Richmond,
 by C. A. Pitchford, interested
 party.
C. E. Huffman, for the East Richmond
 Heights Improvement Club, interested
 party.
O. B. Kerr, for Richmond Retail Merchants
 Association, interested party.
Charles E. Bridgett of the Commission's
 Staff.
 Donahue, Richards, Rowell and Gallagher ✓
 by George E. Thomas, for Key System ✓
 Transit Lines, protestant.

O P I N I O N

By Application No. 34329, Beninger Transportation Service, Inc., requests the authorization of the Commission to discontinue passenger stage operations between Richmond and an area easterly thereof known as East Richmond Heights. The operative right for this service was created by Decision No. 45911 in Application No. 32182. A hearing thereon was held before Examiner Paul at Richmond on July 2, 1953, at which evidence was adduced in support of applicant's request to be discussed later herein. During the latter part of the hearing representatives of the City of Richmond proposed to applicant that it

should withdraw its application to abandon operations between Richmond and East Richmond Heights and seek removal of a restriction prohibiting local service by applicant between points in Richmond along MacDonald Avenue westerly of San Pablo Avenue and to re-establish and continue the operation. Thereupon applicant asked that submission of the matter be deferred in order to afford it an opportunity to prepare and file an appropriate application requesting removal of such restriction. The matter was taken under submission subject to the provision that submission would not be effective if applicant filed the proposed application before July 20, 1953. In accordance therewith applicant did file Application No. 34559 on July 18, 1953. It herein requests not only the removal of the local restriction along MacDonald Avenue, but also seeks authority to extend its local route of operation within Richmond from its present terminus at 11th Street to 1st and MacDonald Avenue. In addition applicant proposes a re-routing within East Richmond Heights which would shorten that route. At the public hearing on October 8, 1953, evidence was adduced by the parties with respect to Application No. 34559 and the records in the two matters were consolidated for receipt of evidence and decision. Both matters were submitted.

The evidence adduced at the earlier hearing in Application No. 34329 should first be considered. The president of applicant testified that prior to April 6, 1953, 12 round trips were being operated between East Richmond Heights and Richmond daily except Sundays and holidays, between the approximate hours of 7 a.m. and 7 p.m. On April 6, 1953, all of those schedules were discontinued and in lieu thereof applicant established a schedule leaving Parchester Village at 6 a.m. thence traveling westbound over applicant's regular route through East Richmond Heights and arriving at 11th and MacDonald Avenue in the City of Richmond at 6:25 a.m. No other schedule serves East Richmond Heights until the evening when a

single schedule leaves Evans and San Pablo Avenues at 7:05 p.m. then follows the same route westbound through East Richmond Heights and terminates at 11th Street and MacDonald Avenue in the City of Richmond about 7:25 p.m. No passengers use either of these schedules from East Richmond Heights. Only one person uses this service and that is the morning schedule from MacDonald and San Pablo Avenues to downtown Richmond.

Applicant stated that service between East Richmond Heights and Richmond was established in 1947 and has been operated continuously to date except for the change established on April 6, 1953, as above-described.

Exhibit "A" attached to the Application No. 34329 shows the combined gross operating revenues and expenses of operations of the East Richmond Heights Line and the Parchester Line for the year 1952 amounted to \$9,883.05 and \$14,055.59, respectively, resulting in a net operating loss of \$4,172.54. This exhibit also indicates that the operating loss from these lines for the months of January, February and March 1953 amounted to the following respective amounts: \$488.00, \$372.41 and \$386.66.

The profit and loss statement of applicant's entire operations for the year 1952 shows a total passenger revenue of \$72,300.62 and total operating expenses of \$78,428.33. This resulted in a net operating loss of \$6,127.71 before considering interest charges of \$1,920.00, or a total loss from the operation of \$8,047.71.

In connection with Application No. 34559; applicant's president testified that during the time he was providing the more frequent service to and from East Richmond Heights he transported about 200 passengers daily, Mondays through Fridays and approximately 125 passengers on Saturdays. During the school term which extended over a period of about 180 days he transported a daily average on school days

of approximately 200 school children in addition to his ordinary traffic. The one-way fare for adults is 15 cents and that for school children is one half the adult fare. He further testified that the cost of the operation was approximately \$46 a day and the daily revenues varied from \$30 to \$33. He operated approximately 175 miles each day in providing the 12 round trips and in his opinion he would need the revenue from approximately 350 daily adult fares to equal the approximate cost of the proposed extended operation along MacDonald Avenue. The round-trip distance of applicant's present East Richmond Heights route is approximately $14\frac{1}{2}$ miles. To compensate for the 11 blocks' extension along MacDonald Avenue he would shorten the route in East Richmond Heights which applicant stated would inconvenience but few riders. Shortening of the route would be accomplished by a rerouting which would bring the route into direct contact with the eastern terminal loop of Key System's No. 68 line at Tulare and Barrett Avenues. The witness expressed the opinion that removal of the restriction prohibiting him from performing local service along MacDonald Avenue would enable him to pick up and discharge at least 100 local passengers daily along that avenue. That would produce sufficient additional revenue to justify continuing the East Richmond Heights operation. He had made no study or investigation on which to base such opinion.

A representative of the East Richmond Heights Improvement Club testified that the estimated population of that area amounts to approximately 4,000. He said the lack of passenger service to and from that area had produced hardships for some of the residents thereof.

Applicant called eight public witnesses, all of whom reside in the East Richmond Heights District. They uniformly expressed a need for public transportation and reestablishment of service by applicant between East Richmond Heights and the downtown business area of Richmond. No public witness testified as to a need for service by applicant locally along MacDonald Avenue between its intersection with San Pablo Avenue and First Street, Richmond.

The traffic engineer for Key System Transit Lines testified that his company had no objection to applicant's proposed extension of service along MacDonald Avenue from 11th Street to 1st Street but did object to the removal of the restriction prohibiting applicant from providing local service along MacDonald Avenue which is served by Key System for its entire length. The witness gave the following description of the service performed by Key System along that avenue. Key System operates its No. 72 line between Oakland and Richmond on a basic frequency of 30 minutes between approximately 5 a.m. and 12:30 a.m. Other early morning schedules are operated at 1:03, 1:45 and 3:11. During morning and evening peak periods, schedules on the line are operated more frequently than the basic headway. A total of 49 round-trip schedules are operated on this line (Exhibit No. 8). Key System also operates 37 daily round trips over its L line between San Francisco and Richmond between about 7 a.m. and 1 a.m. The basic frequency is similar to the No. 72 line. However, local service along MacDonald Avenue is provided by the L line only on trips inbound to Richmond. Approximately 23 stops are made by these lines along MacDonald Avenue between San Pablo Avenue and 1st Street. They are made at the following intervals: 17 at two blocks, 2 at one block; 2 at three blocks and 1 at four blocks. Another leg of the No. 72 line provides additional service

along MacDonald Avenue west of 23rd Street to Garrard Boulevard and at the same general frequency. Service is provided locally within Richmond by the Key System No. 68 line along Roosevelt Avenue between San Pablo Avenue and 23rd Street on a basic headway of 30 minutes until 7 p.m. From 7 p.m. until about 11 p.m. the service is reduced to a frequency of about 40 minutes. This line extends easterly of San Pablo Avenue to Tulare and Barrett Avenues just below the East Richmond Heights area. Roosevelt Avenue is situated approximately 1,500 feet northerly of and parallel to MacDonald Avenue. The service described is operated Mondays through Fridays. Saturday and Sunday schedules are operated on a basis of 80 per cent and 50 per cent, respectively, of the weekday service.

On cross-examination the witness for Key System observed that from his experience and studies, an increase in frequencies from 30 minutes to 15 minutes approximately doubles the costs of operation but increases the traffic only about five to ten per cent. It was his further opinion that a frequency of 30 minutes will adequately care for the off-peak riders.

The traffic engineer of the City of Richmond testified that a check made by him (Exhibit No. 6) at 23rd Street and MacDonald Avenue showed that Key System lines L and 72 M traveled along MacDonald Avenue at 23rd Street together or within one or two minutes of each other. He thought they could provide a better service if operated at greater intervals. Key System's engineer pointed out these lines are scheduled to operate at approximately five to ten-minute intervals along MacDonald Avenue and that Key's service is doubled along MacDonald Avenue west of 23rd Street by its No. 72 P line.

Richmond's engineer further testified the Richmond Planning Commission had made a study of the East Richmond Heights area which

has resulted in a petition for its annexation to the City of Richmond. He said in 1953 it was estimated that area had a population of about 3,000. He pointed out that MacDonald Avenue is the main east-west business artery of Richmond and applicant had furnished the only public transportation between East Richmond Heights and the principal business section of Richmond.

Counsel for the City of Richmond urged that East Richmond Heights is an integral part of Richmond's trade area and that adequate public transportation is needed by the Heights and the City of Richmond so that residents of the Heights would have public transportation on an "hourly turn-around basis" to and from Richmond's central business district. He desires the removal of the restriction contained in applicant's operative rights to make it financially possible for the latter to re-establish operations and overcome an assertedly inadequate service. Counsel further contended that a 30-minute frequency during shopping hours is not enough; that an increase in service as proposed by applicant would be a benefit to the community and would not work any substantial harm to the carrier now in operation.

A review of the record in this proceeding shows that applicant, prior to April 6, 1953, had been providing service between East Richmond Heights and Richmond as certificated by this Commission. Originally, his one-way adult fare on that line was ten cents. As the line was operating at a loss, in 1950 he applied for and received authority to increase the fare to 15 cents. The increased fare failed to overcome his operating deficit. Applicant, through his counsel, expressed the opinion that a further increase in the fare would again fail to overcome his operating losses from

the line. Hence, so it is asserted, either the operation should be abandoned or increased use of the service should be developed. He therefore seeks removal of the MacDonald Avenue local restriction which is the only one on the line. The operative authority involved was created in 1947 (Decision No. 40174). It was based upon a preponderant and conclusive showing of need by the public residing in East Richmond Heights along the route then proposed. Then, as now, there was no showing of public need for local service along MacDonald Avenue which was also then, as well as now, provided with a local service by protestant Key System.

After full consideration we find this record contains no evidence on which to base a finding that public convenience and necessity require that applicant be certificated to provide service along MacDonald Avenue. Therefore, Application No. 34559 will be denied.

The record indicates that many who used applicant's service to and from East Richmond Heights are now compelled to obtain other means of transportation. It should be pointed out that applicant voluntarily discontinued that service long before requesting the Commission's authority to abandon it. In justification of that action, applicant testified there had never been a day's operation of the line that produced revenue equal to its full cost. He had rearranged schedules, rerouted the service and obtained improved equipment in an attempt to induce increased use of the line, all to no avail.

After full consideration of all the evidence of record we conclude the patronage of the line described in Application No. 34329 does not justify continuance of the service thereover and applicant's request for authority to abandon the line should be granted and the operative rights created by Decisions Nos. 45911 and 43477 revoked and annulled as requested in Application No. 34329.

O R D E R

The above-entitled applications having been considered, a public hearing having been held, the matters having been submitted and now being ready for decision,

IT IS ORDERED:

(1) That Application No. 34559 is hereby denied.

(2) That Beninger Transportation Service, Inc., is hereby authorized to abandon passenger stage service over the routes and between the points set forth in Decision No. 43477 in Application No. 30653 and in Decision No. 45911 in Application No. 32182 and the operative rights created by said Decisions Nos. 43477 and 45911 are hereby revoked and annulled.

(3) That Beninger Transportation Service, Inc., shall cancel all rates and fares between the points referred to in paragraph (2) of this order and in compliance with the Commission's General Order No. 79 and on not less than ten days' notice to the Commission and the public.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th day of February, 1954.

A. J. Davidson
President
Matthew J. Clavin
Francis Patten
John E. Mitchell
Wesley J. Quinn
Commissioners