

ORIGINAL

Decision No. 56333

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of KEY SYSTEM)
 TRANSIT LINES, a corporation, for authority to)
 inaugurate motor coach service in lieu of its) Application No. 36656
 present transbay rail lines between points in) As Amended
 the cities of Oakland, Berkeley, Emeryville)
 and Piedmont, and the City and County of)
 San Francisco, State of California.)

In the Matter of the Application of KEY SYSTEM)
 TRANSIT LINES, a corporation, for interim)
 relief and for an order pursuant to Section) Application No. 36980
 454 of the Public Utilities Code authorizing) As Amended
 the establishment of rates and fares for)
 transportation of passengers between points)
 in the Counties of Alameda and Contra Costa,)
 and the City and County of San Francisco in)
 the State of California.)

(IN BANK)

(Appearances are listed following order)

O P I N I O N

The Commission, after receipt of various petitions and other pleadings seeking or opposing further delay in execution by Key System of authority to substitute buses for transbay rail service (Decision No. 54669, March 12, 1957, 55 Cal. P.U.C. 487), and requesting or opposing reopening of these proceedings, ordered a hearing to be held for the purpose of receiving argument and

evidence addressed to that issue. (Decision No. 56004, December 17, 1957.)^{1/}

Hearings were held at Oakland or San Francisco on January 13, 14, 15 and 20, 1958, before Commissioner Matthew J. Dooley and Examiner John M. Gregory. Final arguments were presented to the Commission in bank on January 28, 1958, when the matter was taken under submission.

The sole issue we are called upon to decide is whether the evidence and arguments advanced at the hearings held in January 1958, reveal such substantially changed conditions to have developed since the issuance of Decision No. 54669 (rehearing denied, June 18, 1957, 55 Cal. P.U.C. 631) as to warrant a reopening of this proceeding.

These proceedings have been pending for more than three years. They should now be terminated, unless the evidence presented at the recent hearings is of such persuasive force as to indicate that our former conclusions are now untenable and warrant re-examination in a reopened proceeding.

<u>1/</u> <u>Party</u>	<u>Pleading</u>	<u>Date Filed</u>
Key System	Petition	December 3, 1957
Claremont Improvement Club, Inc.)	Petition	December 6, 1957
Kensington Improvement Club)		
Thousand Oaks Improvement Assoc.	Petition	December 12, 1957
Claremont Improvement Club, et al.	Reply	December 12, 1957
City of Oakland	(Answer	December 11, 1957
	(Letter	December 16, 1957
Alameda-Contra Costa Transit District and City of Berkeley	Petition	December 13, 1957

The Alameda-Contra Costa Transit District in the recent hearings advanced two tentative proposals for a rail shuttle service across the Oakland-San Francisco Bay Bridge. Two rail shuttle plans, included in the Commission staff's Exhibits Nos. 11 and 12 herein, were previously considered by the Commission and found objectionable in our interim decision issued in December 1956. That decision, and the final decision of March 12, 1957, also noted developments culminating in organization of the Alameda-Contra Costa Transit District and the San Francisco Bay Area Rapid Transit District, both of statutory origin and having important and independent powers. The final decision, also, noted the passage of urgency legislation early in 1957, appropriating funds for study of reconstruction of the Bay Bridge and terminal. That action was followed by urgency legislation authorizing the Department of Public Works to proceed with the reconstruction, including removal of the rails.

None of the foregoing developments involves matters over which this Commission exercises regulatory jurisdiction. Moreover, tentative plans for rail shuttle service, proposed in two preliminary reports by engineers retained by the Two-County Transit District and in which material defects and uncertainties were revealed through searching cross-examination of the proponent's witnesses, have not matured to the point of final acceptance by the District as the basis for a bond issue expected to be submitted to the voters in November 1958.

Meanwhile, street traffic congestion in the San Francisco terminal area, due largely to the presence of Key System buses during peak travel periods, and progressive deterioration of portions of Key trackage in the East Bay, necessitating recent imposition of slow speed limits on certain designated stretches of track, continue to impair transit conditions between and within communities on both sides of the bay.

It is noted that the Five-County District, which, as the former Bay Area Rapid Transit Commission, had participated in earlier phases of these proceedings and had recommended to the Legislature the so-called "Optimum Plan", presented to it by its engineering consultants (calling for a subaqueous tube linking San Francisco and the East Bay with consequent non-use of present rail areas or facilities), took no part in the recent hearings.

Representatives of the City and County of San Francisco, the Cities of Oakland, Berkeley, Alameda, Richmond, Albany, El Cerrito and San Leandro; the Oakland and Berkeley Chambers of Commerce; the Thousand Oaks Improvement Association, the Claremont Improvement Club, Inc., and the Kensington Improvement Club; the Carmen's Union and the Central Labor Council of Alameda County, together with a number of interested individuals, presented statements or testimony concerning their respective positions in favor of or opposed to reopening this proceeding.

Since the views of those who appeared in the earlier hearings, with the exception of the Department of Public Works,

remain substantially unchanged, we do not consider it necessary to the disposition of the issue now before us to discuss the various positions, although they have been carefully reviewed and considered in reaching our present conclusions.

The State Department of Public Works, originally opposed to the bus substitution proposal, now states that its grounds of objection have been removed by the 1957 legislation authorizing reconstruction of the bridge. Such reconstruction, the Department asserts, will convert the bridge into a modern, safe facility for all types of vehicular traffic, and will also convert the San Francisco terminal into a union terminal that will accommodate all transbay buses and permit them to load and unload without using San Francisco's streets. The Department, the record shows, is ready to proceed with the work. It opposes further delay in these proceedings as contrary to the public interest.

The projected reconstruction of the bridge and terminal pursuant to authority granted by the Legislature requires that our previous conditional authorization to Key System be modified in certain respects. The order to follow will so provide.

The basic conclusions underlying our previous orders authorizing Key System to substitute buses for rail transportation have not, in our opinion, been shown to be unsound by the testimony and argument adduced at the recent hearings. Nor have petitioners presented evidence of changed conditions, not already contemplated in the decisions heretofore made, that points to any useful purpose

to be served by reopening this entire record and entering upon another protracted series of public hearings, especially in view of the action of the Legislature, as expressed in the 1957 statutes relating to the Bay Bridge, of which we take judicial notice.

In our interim Decision No. 54242 of December 11, 1956, we stated:

". . . . we shall not, in our orders herein, take any action which will prejudice the ultimate development of a rapid transit system. It would, however, in view of the financial and other problems involved, be totally unrealistic for us to require that the present service be maintained unchanged until rapid transit can take its place."

In that same decision we also stated:

". . . . Plan IV, involving full motorization and maximum use of the lower deck of the Bay Bridge, would afford the best over-all method which has come to our attention in this proceeding for providing convenient, efficient and rapid transbay transit service to the public pending completion of the vast transit projects which are still in preliminary stages of planning. Unfortunately, however, certain obstacles, discussed above, appear to preclude the inauguration of Plan IV at the present time unless the legislature were to make available the funds necessary for its completion."

The Legislature, as hereinbefore noted, has now authorized monies to be spent for making changes on the bridge. A plan for reconstruction has been outlined which will remove all rail facilities and ultimately result in a freeway standard unidirectional structure for motor vehicles only. It is contemplated that this construction program will be spread over a period of approximately four years.

The Five-County Transit District by Resolution No. 13 of January 9, 1958, has requested the California Toll Bridge Authority fully to consider reserving space on the bridge which could be recovered for possible future rapid transit use. This is also the ultimate aim of the Two-County District and most of the other parties who have urged further hearings in this proceeding.

The following order reaffirms our original order which authorizes the bus substitution; however, in view of the circumstances, we think it would be advisable for those who will be responsible for authorizing changes on the bridge to review the situation again before finally adopting and proceeding with the full reconstruction program as proposed. The Plan IV program referred to earlier, could be implemented as an intermediate step allowing full conversion to bus operation and at the same time retaining the existing right-of-way space. This would allow the Five-County District additional time to determine its ultimate plan. If it is concluded that rapid transit plans will not require the space on the bridge, the balance of the proposed reconstruction program could be carried out with little, if any, extra expense. As we have stated, we have no jurisdiction over this particular phase of the question; however, we consider it our duty to the traveling public and the agencies involved to suggest that it be given careful study by those public authorities which do have jurisdiction.

We have reviewed the evidence and arguments presented at the last series of hearings in light of the previous record and of our former orders. We find nothing of such a substantial nature as

to require further hearings before this Commission on the question of bus substitution for rail service by Key System. Accordingly, we conclude that the petitions to reopen this matter should be denied.

The motion of Key System, in which the City of Oakland joined, to dismiss these petitions, which motions were taken under submission at the opening of the recent hearings and the parties directed to proceed, will be denied. The petitions, and each of them, for reopening these proceedings for further hearing should and will be denied.

O R D E R

Public hearings having been held herein, arguments having been presented to the Commission sitting in bank, the Commission having considered the evidence and arguments and finding no good cause appearing for reopening these proceedings for further hearing,

IT IS ORDERED that:

(1) The petitions to reopen these proceedings are and each of them hereby is denied.

(2) Paragraph 1 of the Order in Decision No. 54669 be and it hereby is amended to read as follows:

"1. Key System Transit Lines be and it hereby is authorized to discontinue transbay rail service and to substitute motor coach service therefor on its present "A", "B", "C", "E" and "F" rail lines, subject to the following conditions:

- a. That such motor coach substitution be effected concurrently with discontinuance of rail service.

- b. That such motor coach substitution be effected concurrently with the inauguration of work by the California Toll Bridge Authority in reconstructing the Bay Bridge Transit Terminal for use by motor coaches.
- c. That applicant purchase, place in service concurrently with the discontinuance of rail service hereinabove authorized and thereafter operate in the transbay service herein authorized 21 new 48-passenger Diesel motor coaches."

(3) An additional sentence be and it hereby is added to ordering paragraph 2 of Decision No. 54669 to read as follows:

"During the time of reconstruction of the Bay Bridge Transit Terminal, applicant is authorized to use necessary city streets in San Francisco between the Bay Bridge approaches and the Transit Terminal in accordance with applicable police and traffic regulations."

(4) The first sentence of ordering paragraph 9 of Decision No. 54669 be and it hereby is amended to read as follows:

"9. The authority hereby granted will expire if not exercised on or before July 1, 1958."

Except as hereinabove modified, Decision No. 54669, in all other respects, shall be and continue in full force and effect.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of MARCH, 1958.

(Signature: E. H. Mitchell)

 President
(Signature: Charles J. Peterson)

(Signature: William H. ...)

(Signature: E. J. ...)

Commissioners

ADDITIONAL APPEARANCES AT HEARINGS
IN JANUARY 1958

- Frederick M. Cunningham, Deputy City Attorney, and
Wayne E. Thompson, City Manager, for City of
Oakland.
- Bernard J. Ward, Deputy City Attorney, for City and
County of San Francisco.
- Arthur M. Carden, City Attorney, for City of San
Leandro.
- William M. McCall, Mayor, for City of Alameda.
- Leo Armstrong, for City of El Cerrito.
- Edwin S. Howell, Mayor, and Robert G. Olson,
Administrative Assistant to the City Council,
for City of Albany.
- W. A. Sparling, General Manager, for Oakland
Chamber of Commerce.
- Ronald J. Miguel, for Berkeley Chamber of Commerce.
- Scott Elder, for Claremont Improvement Club, Inc.,
and Kensington Improvement Club.
- J. Howard Arnold, as a Director of Alameda-Contra
Costa Transit District.
- George Duncan, for certain taxpayers.
- James M. Leaver, for Greater North Oakland Strategic
Area.
- Peter M. Tripp, Oakland City Councilman, in
propria persona.
- Fred E. Reed, in propria persona.