

Decision No. 57941**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of  
 ALAMEDA-CONTRA COSTA TRANSIT  
 DISTRICT to have fixed the just  
 compensation to be paid for cer-  
 tain transit facilities operated  
 by the KEY SYSTEM TRANSIT LINES,  
 INC., existing within and adjacent  
 to the boundaries of said district.

Application No. 40084

ORDER DISMISSING PETITION  
OF CITY OF OAKLAND

On November 20, 1958, the City of Oakland filed a petition in the above-entitled proceeding reciting that on November 17, 1949, the City Council of the City of Oakland enacted an ordinance granting to Key System Transit Lines a franchise to establish, maintain and operate a local and transbay transportation system over certain streets in the City of Oakland for the transportation of passengers for hire as a common carrier and fixing the terms and conditions thereof; that said franchise was given for a period of ten years with an option to renew for three additional periods of five years; that said ordinance provided that whenever the grantee should substitute other service for transbay rail service the grantee, at its own cost and expense, shall remove from the streets all rail service facilities used, including tracks, ties, poles, wires and appurtenances, and repave the portions of streets from which such tracks and appurtenances shall have been removed; that on or about April 20, 1958, said Key System Transit Lines substituted bus for transbay rail service, and that said utility does not now operate rail cars either upon the streets of the City of Oakland or for its transbay service; that said Key System Transit Lines has not performed its obligations under

said franchise in that it has not removed all of its facilities including tracks from streets of the City of Oakland, nor has it repaved portions of said streets from which said tracks are to be removed; that the cost of such track removal and street repaving is \$509,200; that the Alameda-Contra Costa Transit District seeks to acquire from said Key System Transit Lines only certain selected assets; that in the event said assets are thus acquired, said Key System Transit Lines will be deprived of operating revenues with which to fulfill its franchise obligation to the City of Oakland; and that the City of Oakland fears that in the event the Commission's determination of the just compensation to be paid to said Key System Transit Lines is limited to consideration solely of the assets sought to be acquired by the Alameda-Contra Costa Transit District, the City of Oakland will suffer great financial loss for the reason that said Key System Transit Lines will not then be able to perform its franchise commitments.

In its petition the City of Oakland prays as follows:

"(1) That the Public Utilities Commission, in its consideration of this pending valuation or just compensation proceeding, include obligations as well as assets of respondent, Key System Transit Lines;

"(2) That this Commission evaluate the franchise obligation of Key System Transit Lines to City of Oakland to remove rails from certain public streets therein and repave same, and to determine the sum of money required therefor;

"(3) That this Commission, in its Decision fixing the just compensation prayed for by petitioner, Alameda-Contra Costa Transit District, include therein the cost of said removal and repaving as so determined;

"(4) That this Commission, in said Decision, require either (a) that Petitioner, Alameda-Contra Costa Transit District, pay to the City of Oakland said sum in addition to the sum determined to be just compensation for the assets sought, or (b) that Petitioner, Alameda-Contra Costa Transit District, shall withhold from the amount so determined, and pay same to said City, the sum of money required for the performance by Key System Transit Lines of its said franchise obligation to the City of Oakland;"

The instant proceeding, in which the City of Oakland has filed its petition, was commenced by a petition of the Alameda-Contra Costa Transit District pursuant to Division 1, Part 1, Chapter 8 (Sections 1401-1421) of the Public Utilities Code, requesting that the Commission fix the just compensation to be paid by said District for certain described property of Key System Transit Lines and Bay Area Public Service Corporation used in rendering public utility service. It is our opinion that the Commission's powers in such a proceeding are defined and limited by these sections of the Public Utilities Code, and that we cannot exercise any power not conferred therein. We find nothing in these sections authorizing us to grant any of the relief requested by the City of Oakland.

Therefore, good cause appearing, IT IS ORDERED that the above-described petition of the City of Oakland be and it is hereby dismissed.

Dated at Los Angeles, California, this 27<sup>th</sup> day of January, 1959.

Carl L. Fox  
President  
W. E. H. H. H. H.  
W. E. H. H. H. H.  
Frederick J. Deener  
Commissioners