

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of.
PEERLESS STAGES, INCORPORATED, for a
 certificate of public convenience and
 necessity to establish an automobile
 stage line for the transportation of
 passengers between Newark, California,
 and Pleasanton, California, and inter-
 mediate points, via Centerville, Niles,
 Farwell, Brightside, Sunol and Bonita.

Application No. 10580.

Harry A. Encell and Charles A. Gale for Applicant;
W. E. Travis for California Transit Co., Protestant;
H. H. Gogerty for Southern Pacific Co., Protestant.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Peerless Stages, Incorporated, a corporation, seeks a certificate of public convenience and necessity, authorizing it to establish an automobile stage line as a common carrier of passengers between Newark and Pleasanton via Centerville, Niles, Farwell, Brightside, Sunol and Bonita and intermediate points. The proposed tariff and time schedules are attached to the application. Applicant does not specifically describe the character of equipment to be used, but alleges that it will operate modern up-to-date auto stages of such capacity and type as will be best suited to meet the demands of the traveling public over this route.

A public hearing was held before Examiner Austin at Centerville on April 1, 1925, when evidence was introduced, the matter submitted and it is now ready for decision.

The granting of this application was protested by Southern Pacific Company and the California Transit Company. The latter requested that the decision in this proceeding be with-held, pending the determination of its Application No. 10950, wherein this protestant sought authority to effect a change of route for a portion of its service now operating between Stockton and San Jose via Livermore, so that one or more of its daily schedules between these terminals may be operated by way of Niles, such diversion affecting only that portion of the route lying between Sunol and Mission San Jose, serving all intermediate points on such route as changed.

A hearing on Application 10950 was held before Examiner Austin at Pleasanton on September 11, 1925, when it was stipulated between the California Transit Company, applicant therein, and the Peerless Stages, Incorporated, which appeared as a protestant therein, that in Application No. 10580, Peerless Stages, Incorporated, would not seek to operate east of Sunol, and California Transit Company, in turn, agreed to dismiss Application No. 10950 and to with-draw its protest in Application No. 10580. This leaves the pending application as though it included only the route between Sunol and Newark and consequently all testimony dealing with the necessity for stage service for that portion of the route between Sunol and Pleasanton will be disregarded.

At the hearing the testimony seemed to fall within three divisions, namely: first, that dealing with the necess-

ity for a stage service between Centerville and Niles; second, as to the necessity for such service between Niles and Sunol, and third; as to the necessity for a through service between Newark and Sunol.

Dealing first with the situation between Newark, Centerville and Niles, it appears that between those towns the Southern Pacific Company operates but two mixed trains daily, ^{one} during the early morning, and the other in the late afternoon. Under this service it is impossible to make the round trip from Newark to Oakland or San Francisco in one day. Several witnesses testified that the train service was so inconvenient and slow that travelers were obliged to hire private automobiles or walk, resulting in considerable inconvenience to residents of Newark desiring to visit or trade at Centerville. A dentist, Dr. Eaton of Centerville, testified that many of his patients from Newark walked over for their treatments. The proprietor of a garage at Niles testified that daily inquiries were received regarding transportation between Niles and Newark and to accommodate this traffic he was called upon frequently to rent cars. The driver of a school bus operating between Centerville and Newark, stated that on many occasions pedestrians requested rides, there being no other means of conveyance. Other witnesses testified that daily inquiries were received regarding the transportation facilities available between Centerville, Niles and Newark. It appears that when a bus service formerly operated between Newark and Centerville was discontinued, the Southern Pacific Company was requested to establish more frequent train service between these towns, but declined to do so on the ground it would not pay. At Newark is situated the Graham Stove Factory, employing

several hundred men. Of these about 50 live in Centerville who travel daily by private automobile to Newark, being unable to use the trains because of the inconvenient schedule. Most of these men, it was stated, would use applicant's stage line were it operating. There is also a manufacturing plant at Niles which frequently interchanges employes with the Graham plant at Centerville, its manager testifying that as many as three or four men daily would travel between the two towns and would make use of applicant's stage service if it were in operation. At present they are obliged to use private automobiles.

With respect to the route between Niles and Sunol, it appears that about 20 families live in Niles Canyon within a distance of a mile from Niles, most of whom trade at Niles or Oakland. As trains do not stop nearer than Niles or Sunol, they are unable to travel by rail, but will use applicant's stages, which will stop at their doors. At present they are obliged to walk or use their neighbors' cars. Other witnesses testified that during the summer season as many as a thousand people a day camp or picnic in Niles Canyon, some remaining there for several days. These campers have frequently inquired concerning a stage service through the canyon and would patronize it in order to purchase their supplies at Niles. Formerly the rail service was adequate to accommodate their needs, but now the trains operate at inconvenient hours. At Calaveras Dam, situated about nine miles from Sunol, the Spring Valley Water Company employs from 100 to 500 men, many of whom travel daily to Sunol, Pleasanton and Niles, using the Company's trucks to Sunol and traveling thence by any conveyance available.

On an average five to ten of these men daily make the trip to Niles and would be accommodated by a stage line.

Several witnesses testified regarding the proposed through service. Much of their testimony dealt with the need for transportation between Newark and Pleasanton, but this must be disregarded in view of the amendment to the application which fixed the eastern terminal of the route at Sunol. However, the record indicates a need for through service from Newark and Centerville through Niles Canyon to Sunol and intermediate points. This testimony dealt principally with those residing east of Niles desiring to visit their friends in Centerville or Newark, who were unable to make the trip now because of inconvenient transportation facilities and bad connections at Niles, but who would do so were there adequate facilities. Applicant's Traffic Manager testified that for the past two and one-half years he had been conducting an investigation relative to the necessity for this service and had learned that frequent requests were made for transportation service from Newark to Niles Canyon. In the course of this investigation he had frequently visited Niles, Pleasanton, Sunol and points in Niles Canyon and had become acquainted with the need for the service.

Protestant California Transit Company introduced no evidence, contenting itself with cross-examining the applicant's witnesses. Some stated that the rerouting of protestant's line, as set forth in Application No. 10950, would suit their needs for a local service between Pleasanton and Niles. However, in view of the withdrawal of this protest and the dismissal of Application 10950, we cannot see how these admissions in any way detract from the showing made by applicant in the instant case.

Applicant has shown a need for the service, which it alone can now supply, the California Transit Company having retired from the field.

Southern Pacific Company called no witnesses in support of its protest, but offered by reference its time schedules and tariffs of fares relating to its service between the points involved. It introduced an exhibit showing its passenger train service and fares between Niles and Pleasanton, indicating that four trains daily are operated from Niles to Pleasanton and in the opposite direction, three trains daily. In our judgment, this showing does not overcome the testimony of applicant's witnesses to the effect that the rail service is inconvenient and does not meet their needs.

In our judgment, applicant has shown a necessity for the operation of stage service over this route and should be granted the certificate prayed for. Inasmuch as the line will terminate at Sunol, instead of Pleasanton, as originally contemplated, it will be necessary for applicant to file new tariffs and time schedules which shall be subject to the approval of the Commission.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation by Peerless Stages, Incorporated, a corporation, of an automobile stage service for the transportation of passengers as a common carrier between Newark and Sunol and inter-points, which said intermediate points are as follows, viz.: Centerville, Niles, Farwell and Brightside, provided that service may be rendered between such other intermediate points in Niles Canyon between Niles and Sunol as may be specified in the tariff

filed pursuant to the first condition hereinafter set forth in the following order, and not otherwise.

An order will be entered accordingly:

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being now fully advised; and basing its order on the finding of fact preceding this order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by Peerless Stages, Incorporated, a corporation, of an automobile stage service for the transportation of passengers as a common carrier between Newark and Sunol and intermediate points, which said intermediate points are as follows, viz: Centerville, Niles, Farwell and Brightside, provided that service may be rendered between such other intermediate points in Niles Canyon between Niles and Sunol as may be specified in the tariff filed pursuant to the first condition hereinafter set forth in this order, and not otherwise.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Peerless Stages, Incorporated, a corporation, for the operation of the service herein described, subject to the conditions hereinafter set forth:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof; shall file, in duplicate, tariff of rates and time schedules subject to the approval of the Railroad Commission within a period not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules

to be satisfactory to the Railroad Commission and in accordance and compliance with the foregoing portion of the order herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all purposes, other than hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 9th day of October, 1925.

H. H. Brundage
Chairman
George D. Squires

Leon Whitely

Commissioners.