

Decision No. 21897

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PEERLESS STAGES, INCORPORATED, (1) to
 consolidate its operations between
 San Jose and Santa Cruz and San Jose,
 Big Basin and Santa Cruz; (2) to abandon
 its operations between San Jose and
 Big Basin, via Saratoga; (3) and in
 connection therewith to serve the town
 of Boulder Creek, as a transportation
 company and common carrier of passengers
 and express.

ORIGINAL

) Application
 No. 15787

Harry A. Encell and Joseph B. Held for Applicant.

H. W. Hobbs, for Southern Pacific Company and
 Peninsular Railway Company, Protestants.

Earl A. Bagby, for Southern Pacific Motor Transport
 Company and Pickwick Stages System, Protestants.

Edw. Stern, for Railway Express Agency, Inc., Protestant.

BY THE COMMISSION -

O P I N I O N

Peerless Stages, Incorporated, a corporation, by its appli-
 cation, as amended, has petitioned the Railroad Commission for an
 order

1- Authorizing the consolidation of operations between
 San Jose, Big Basin and Santa Cruz with operations be -
 tween San Jose and Santa Cruz.

2- Authorizing discontinuance of operations as a common
 carrier of passengers and property between San Jose and
 Big Basin, via Saratoga.

3- Authorizing the cancellation of the designation of
 "freight" from its tariff and the substitution of the
 item "express" in lieu thereof.

4- For a certificate of public convenience and necessity
 permitting applicant to serve and designate in its time
 schedule and tariff the point "Boulder Creek" as an
 intermediate point between Santa Cruz and Big Basin.

5- For authority to conduct seasonal operation, commencing
 May 15th and ending September 30th of each year, of the
 consolidated service herein proposed.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant is authorized to conduct automobile stage service for the transportation of persons and property between San Jose and Santa Cruz, via Big Basin, by the authority contained in Decisions Nos. 15006 and 21335 on Application No. 11138, and to conduct automobile stage service between Santa Cruz and San Jose and intermediate points by the authority as contained in this Commission's Decision No. 12766 on Application No. 9437. No authority has heretofore been granted, or requested, for the joining or merging of these operative rights.

Operation of the Big Basin Division of applicant's system is seasonal, commencing in May and terminating in September of each year. The record shows, by testimony of officials and exhibits, that operation of the line between San Jose and Big Basin, via Saratoga, has each year resulted in deficits, as follows:

<u>YEAR</u>	<u>DEFICIT</u>
1925	\$ 1558.97
1926	1451.95
1927	1095.75
1928	349.04
1929	892.05

In explanation of the minimum deficit accruing during the year 1928, it appears that no service was rendered directly to Big Basin via Saratoga Pass, the highway being under reconstruction and closed to public travel. Applicant during this period operated via Santa Cruz and only such portion of the expense of operation was charged to this service as was the result of a prorating of the mileage cost between Big Basin and Santa Cruz as against the total mileage cost between San

Jose and Big Basin, via Santa Cruz.

The seasonal traffic served by the line operating between San Jose and Big Basin via Saratoga is exceptionally light, such line being restricted against the handling of any local business between San Jose and Saratoga, both inclusive, Exhibit show the traffic handled between Saratoga and Big Basin to have totaled but 50 passengers during the season of 1927, and 21 passengers during the season of 1929, no traffic between these points having been handled during 1928 by reason of the highway being closed.

It is proposed to charge the same passenger rates, San Jose to Big Basin via Santa Cruz, as were formerly in effect via the Saratoga Gateway, thereby affording a reduction over the present rate via Santa Cruz of 65 cents on one-way and 75 cents on round-trip tickets.

W. K. Doll, employed as State Warden at Big Basin Park, and Mrs. E. H. Walters, manager of the hotel at Big Basin, testified in behalf of applicant and endorsed the proposed service the rates and operating schedules proposed being satisfactory.

There was no protest against the granting of the application, and we conclude that the public will be satisfactorily served by the granting of the authority herein requested, thereby permitting the consolidation of operation between Santa Cruz and Big Basin with the rights of applicant between San Jose and Santa Cruz and permitting the relinquishment of operative rights between San Jose and Big Basin, via the Saratoga gateway. This operation is seasonal and is confined to a short vacation period of each year, and it is not in the public interest to require operation over a lightly patronized route, thereby resulting in material deficits, when the same facilities are available via another route operated by applicant herein, with satisfactory schedules and at no increase in rates for the traveling public.

Regarding the petition of applicant to cancel from its tariffs the designation of "freight" and substitute therefor the term "express" as covering the carriage of property. It appears that property carrying rights are held by applicant by reason of such rights duly transferred by authority of the Commission from applicant's predecessors in interest. It further appears that some of these property carrying rights have been designated in tariffs as "freight", although the record shows that applicant has heretofore confined its transportation of property to such matter as might be conveniently carried on its passenger stages and has not heretofore, nor does it now desire to, transport merchandise or other commodities which would be normally considered as freight. There appears no reason why the request of applicant should not be granted, and the order herein will permit the tariff amendment requested.

Applicant has requested authority to serve as an intermediate point on its consolidated route the station of Boulder Creek. By reason of the stipulation contained in the amended application that no authority is sought to serve Boulder Creek except for traffic originating for or is destined from points north of Boulder Creek on the route between Santa Cruz and Big Basin, there is no other carrier adversely affected and no protest appears against the granting of such authority.

Peerless Stages, Incorporated, a corporation, is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

Public hearings having been held on the above entitled application, the matter having been duly submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the consolidation by Peerless Stages, Incorporated, a corporation, of operative rights between San Jose and Big Basin, via Santa Cruz, and the operation over said consolidated route of automobile stage service as a common carrier of passengers, baggage and express. The rights herein authorized to be consolidated being those heretofore acquired by applicant herein under the provisions of this Commission's Decisions Nos.15008 and 21335 on Application No.11138, and Decision No.12766 on Application No.9437.

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 an automobile stage service as a common carrier of passengers, baggage and express between San Jose and Big Basin, via Santa Cruz, serving all intermediate points including Los Gatos, Lexington, Alma, Idylwild, Oil Wells, Holy City, Redwood Estates, Edgemont, Redwood Lodge Road, Woodwardia, Inspiration Point, Glenwood, Mc Kiernans, Summer Home Farm, Vine Hill Road, Felton Road, Evert Ranch, Santa Cruz and Boulder Creek; provided, however, that no service shall be rendered to or from the station of Boulder Creek except for traffic originating at or destined to points between Boulder Creek and Big Basin, both stations included, and provided that no local service is hereby authorized between San Jose and Los Gatos and intermediate points.

The certificate of public convenience and necessity hereby authorized is in lieu of rights now owned by the applicant under the provisions of Decision No.12766 on Application No.9437 and Decisions Nos.15008 and 21335 on Application No.11138, which rights are hereby canceled and annulled and applicant is hereby directed to immediately file cancellation of rate tariffs and

time schedules covering operations heretofore conducted under the authority of the aforesaid decisions.

Operation between Santa Cruz and Big Basin, via Boulder Creek, may be discontinued during the period October 1st to May 14th, both dates inclusive, of each year.

The granting of the certificate herein authorized and the cancellation of the authority contained in the certificates revoked and annulled by reason of the in lieu certificate herein authorized cares for the prayer of applicant for the discontinuance of service between San Jose and Big Basin, via Saratoga, as authorized by Decisions Nos. 15008 and 21335 on Application No. 11138, and will care for the matter of the elimination of the item "freight" in the tariffs of applicant by the substitution of the item "express" to care for the carriage of property.

This order is subject to the following conditions:

- 1- The carriage of property herein authorized is limited to parcels, packages, newspapers, trunks and merchandise, not exceeding a weight of 100 pounds per piece or unit, excepting trunks. No property shall be carried except on the passenger stages of applicant and then only in such manner as shall not interfere with the convenience and comfort of passengers.
- 2- Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
- 3- Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed thirty (30) days from the date hereof.
- 4- 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.

5- 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 other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13th day of December, 1929.

Thos S. Lott

C. L. ...

E. ...

Leon ...

M. J. ...
COMMISSIONERS.