

Decision No. 22179

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 BAY SHORE AUTO STAGES for certificate  
 of public convenience and necessity to  
 operate passenger pay as you enter  
 auto stages service as a common  
 carrier between San Francisco and San  
 Mateo.

Application  
 No.16060

**ORIGINAL**

In the Matter of the Application of  
 PACIFIC AUTO STAGES, INC., for a certi-  
 ficate of public convenience and  
 necessity to - (a) operate an auto stage  
 line for the transportation of  
 passengers and their baggage, for  
 compensation, and as a common carrier,  
 between San Francisco and San Mateo,  
 California, and intermediate points,  
 via Bay Shore, South San Francisco and  
 Burlingame, California, over the  
 Bay Shore Highway, in conjunction with  
 and as an enlargement of the transpor-  
 tation service now being rendered by  
 applicant between San Francisco and  
 San Jose, California, and intermediate  
 points, via Daly City, Colma, and  
 San Mateo, California; and (b) consoli-  
 date its present operative rights with  
 the operative rights sought to be  
 acquired by this application.

Application  
 No.16088

In the Matter of the Application of  
 PENINSULA RAPID TRANSIT CO., for a  
 certificate of public convenience and  
 necessity to (a) operate an auto stage  
 line for the transportation of passen-  
 gers and their baggage, for compensation,  
 and as a common carrier, between San  
 Francisco and San Mateo, California, and  
 intermediate points, via Bay Shore, South  
 San Francisco and Burlingame, California,  
 over the Bay Shore Highway, in  
 conjunction with and as an enlargement  
 of the transportation service now being  
 rendered by applicant between San  
 Francisco and San Jose, California, and  
 intermediate points, via Daly City,  
 Colma and San Mateo, California; and (b)  
 consolidate its present operative rights  
 with the operative rights sought to be  
 acquired by this application.

Application  
 No.16089

Earl A. Bagby, for Applicants in Applications Nos.16088, 16089, and protestant in Application No.16060.

Hallinan & Roche, by Edward M. Mc Glade, for Applicants in Application No.16060.

Henry Heidelber, for City and County of San Francisco.

Marion Vecki, for Bay Shore Park, Inc., College Highlands Corporation and Bay Shore Properties Co., Intervenors.

K. W. Connon, for Market Street Railway Company, Protestant.

SEAVEY, Commissioner -

OPINION and ORDER

The above entitled proceedings involve transportation by auto stages over what is known as the Bay Shore highway, a new road paralleling for a considerable distance the road known as El Camino Real, the main highway between San Francisco and San Jose.

Application No.16060, by Bay Shore Auto Stages, a partnership, asks for a certificate of public convenience and necessity to operate an automotive service for the transportation of passengers between San Francisco and San Mateo and intermediate points via Bay Shore highway. Application No.16089, by Peninsula Rapid Transit Co., a corporation, asks for authority to operate over the same road, serving local points thereon intermediate between San Mateo and San Francisco. Application No.16088, by Pacific Auto Stages, Inc., as amended, also asks for authority to operate over the Bay Shore road, serving intermediate points between San Mateo and San Francisco, and to abandon the limited service it is now performing between said points over El Camino Real.

Peninsula Rapid Transit Co. is now operating between San Jose and San Francisco via El Camino Real, or Colma road, as is Pacific Auto Stages, both companies being jointly owned and managed. Their applications are, in effect, proposals to re-route part of the Peninsula Company's service and all of Pacific Company's service over Bay Shore highway.

At a public hearing hold in San Francisco the three matters were consolidated, evidence heard and an order of submission made. They are now ready for decision.

A number of witnesses, most of whom testified as representatives of communities within the area affected by the proposals of applicants, either speaking for city councils or civic organizations, strongly urged the use of the new road by public carriers, stressing the point that operation over it would make possible a material saving in time. They also testified that the new road was wider than El Camino Real and safer because of such width and fewer curves and grades. All witnesses were uniform in their statement that public convenience and necessity would be served by the establishment of public transportation over Bay Shore road.

Supporting their testimony, several of the witnesses presented resolutions adopted by community councils or organizations favoring public transportation service over the new road. The San Mateo County Chamber of Commerce, and the Chambers of Commerce of South San Francisco, Mountain View, San Mateo, San Carlos, Palo Alto, Burlingame, San Jose, Sunnyvale, and San Francisco as well as the City Councils of Redwood City, Burlingame and Santa Clara and the Board of Supervisors of San Francisco are among the endorsers of the Bay Shore service.

Mills Field, the airport maintained by the City of San Francisco, is located on Bay Shore road. The nearest transportation to the field is one mile distant. Further development of the airport as well as prospective and present industrial and residential development in the territory proposed to be served, were urged by witnesses as reasons for their supporting testimony.

Other witnesses testified as to the resources of the applicants, the service proposed and the equipment to be used. Officials of applicants Peninsula Rapid Transit Co. and Pacific Auto Stages testified that so far as equipment and service were concerned, these companies were prepared to meet any demand, with particular reference to special days at the airport.

John J. Ryan, for Bay Shore Stages, testified that he and his partners proposed to purchase five (5) buses at a cost of about \$6100 each, making a partial payment thereon. He said the partnership had backing to the extent of about \$25,000. but declined to disclose the name of their principal.

Market Street Railways, which operates an interurban rail service between San Francisco and San Mateo, entered a protest against the granting of the certificates sought and offered some evidence as to the service and revenues of its line.

A review of the evidence convinces me that the service proposed is required by public convenience and necessity. Undoubtedly applicants Peninsula Rapid Transit Co. and Pacific Auto Stages are best qualified and fitted to perform the service, and I recommend that each of them be granted the right to operate over Bay Shore Highway, the service to be established in accordance with the schedule as proposed in Exhibit No.2, submitted at the hearing, and the rates to be those submitted with and made part of their applications. The route of each is to be the route laid down on the map marked Exhibit #1, submitted at the hearing.

I recommend also that the application of Bay Shore Stages be denied. The vague and indefinite assurances of this applicant as to the ability of the partners to assume the duties and responsibilities of a common carrier, justify no other course.

Peninsula Rapid Transit Co. and Pacific Auto Stages, Inc., are 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. I recommend the following form of order:

O R D E R

Public hearings in the above entitled proceedings having been held, testimony taken and an order of submission made and the Commission being fully advised,

IT IS HEREBY ORDERED that Application No. 16060 be and the same is hereby denied.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Peninsula Rapid Transit Co., a corporation, and Pacific Auto Stages, Inc., of an automotive passenger stage service for the transportation of passengers and their baggage between San Francisco and San Mateo and intermediate points, via Bay Shore highway, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and it is hereby granted to each of them, with the understanding that each is to perform said service in connection with and as part of the service now being performed by each of them between San Francisco and San Jose and intermediate points, and with the further understanding that the operating rights herein granted are to be considered by each of them as part of their San Francisco - San Jose rights, and not as separate

rights.

IT IS HEREBY FURTHER ORDERED that Pacific Auto Stages, Inc., be and it is hereby authorized to abandon service on its present route between San Mateo and San Francisco via Colma, and

IT IS HEREBY FURTHER ORDERED that said certificates of public convenience and necessity be and they are hereby granted subject to the following conditions:

1- Applicants shall file their written acceptances of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

2- That Peninsula Rapid Transit Co. and Pacific Auto Stages shall within thirty (30) days from the date hereof file such tariffs as are necessary under the Commission's General Order No.79 to cover the operations herein authorized to be performed, also necessary time schedules, said tariffs and time schedules to be in form and substance satisfactory to the Railroad Commission, and shall start operation of the service herein authorized within thirty (30) days from the date of the order herein.

3- 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.

4- No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them 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.

The above opinion and order are hereby made the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30 day of

March, 1930.

C. C. Seaver

Thos. S. Lott

W. J. Carr

COMMISSIONERS.