

ORIGINAL

Decision No. 28800

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 PEERLESS STAGES, INCORPORATED, to
 (1) to reroute a portion of its ser-
 vice between Fairmount Hospital and
 Hayward; (2) to reroute a portion of
 its service between Fairmount Hospital
 and San Leandro; (3) to reroute a por-
 tion of its service between Fairmount
 Hospital and E.14th St., over 181 Ave. in
 lieu of Plaza Drive; (4) to reroute a
 portion of its service between Hayward
 and San Leandro via San Lorenzo; (5)
 to abandon service over Plaza Drive be-
 tween Foothill Blvd. and East 14th St.;
 (6) to establish a new service between
 Hayward and Castro Valley and connecting
 service to and from Castro Valley to the
 existing lines of Peerless Stages, Inc.;
 (7) to use, at the option of applicant,
 that portion of the route over and along
 Castro Valley Blvd. between East 14th St.
 and 207th Ave., said portion of said route
 to be used principally when necessary to
 connect with the other lines of Peerless
 Stages, Inc.; (8) to re-establish service
 to and from San Lorenzo to all points
 served by Peerless Stages, Inc. and for
 the right to transport passengers, baggage,
 and express to and from all points in-
 volved in accordance with the existing
 and proposed tariffs, rules, and regulations
 now on file with the Commission; and (9)
 to consolidate the proposed service with
 the existing service of Peerless Stages, Inc.
 now rendered between Oakland, Hayward and
 San Jose; Oakland and Palo Alto; and
 San Jose and Santa Cruz.

Application
 No. 19208.

Harry A. Encell for Applicant.

BY THE COMMISSION:

O P I N I O N

Peerless Stages, Incorporated, has petitioned the
 Railroad Commission for an order declaring that public convenience

and necessity require the rerouting of a portion of its service between Fairmount Hospital and Haywards, between Fairmount Hospital and San Leandro; between Fairmount Hospital and East 14th Street in lieu of Plaza Drive, to reroute a portion of its service between Hayward and San Leandro via San Lorenzo, to abandon service over Plaza Drive between Foothill Boulevard and East 14th Street, to establish a new service between Hayward and Castro Valley and connecting service to and from Castro Valley to the existing lines of Peerless Stages, Inc., to use, at the option of applicant, that portion of the route over and along Castro Valley Boulevard between East 14th Street and 207th Avenue, said portion of said route to be used principally when necessary to connect with the other lines of Peerless Stages, Inc.; to re-establish service to and from San Lorenzo to all points served by Peerless Stages, Inc. and for the right to transport passengers, baggage and express to and from all points involved in accordance with the existing and proposed tariffs, rules and regulations now on file with the Commission; and to consolidate the proposed service with the existing service of the applicant as now rendered between Oakland, Hayward and San Jose, Oakland and Palo Alto, and San Jose and Santa Cruz.

A public hearing on this application was conducted by Examiner Handford at Hayward, the matter was duly submitted and is now ready for decision.

Castro Valley is located northwest of and adjacent to the City of Hayward. This is a suburban community in which reside approximately 5000 people. There is now no public transportation facility serving this community, which does most of its trading in the City of Hayward and also would use the proposed line of applicant to Oakland via

Foothill Boulevard. Applicant proposes to establish a service from Hayward to Castro Valley via Castro Valley Boulevard, Layne Street and "A" Street and such proposed service will care for the majority of the residents desiring transportation from Castro Valley to Hayward. The proposed operation of applicant along Foothill Boulevard will also serve the residents of Castro Valley by permitting a transfer to stages reaching Oakland and is also strongly favored by the residents of the Valley who now have no method of public transportation. Eleven residents of Castro Valley testified regarding the necessity for the proposed service and by stipulation the testimony of nineteen other witnesses is of record herein.

Fairmount Hospital is located on Foothill Boulevard and is operated by the County of Alameda. According to the testimony of A. C. Jensen, Superintendent of the Hospital, there are approximately 240 employees and about 900 inmates or patients of which number at least 400 are able to travel. The hospital also receives a great number of visitors from Oakland and San Francisco and the proposed service of applicant is most essential for the public need. The proposed rerouting to the Hospital will better serve the needs of the inmates and visitors as passengers will be received and discharged at a location well adapted for passengers convenience, well lighted and subject to the care of the hospital authorities. Some new road construction has been recently completed, which facilitates the proposed method of access to the hospital and the use of such facility, as well as transportation to Hayward via Foothill Boulevard, is greatly desired by the hospital authorities.

San Lorenzo is a community located southwest of Hayward and at present has no stage service, either to Hayward or Oakland.

By the instant application it is proposed to divert some of the regular schedules now operating between Oakland and Hayward via East 14th Street to pass through San Lorenzo on the portion of the trip between San Leandro and Hayward. This will give San Lorenzo a needed service and will also furnish service to a portion of the southerly section of the City of Hayward on "A" Street. A witness residing at San Lorenzo testified as to the transportation needs of the community and as to the urgent desire for the proposed service. By stipulation the record shows the testimony of 69 other witnesses to be similar to that of the witness called.

At the hearing on this application there was no protest as to its being granted and testimony in favor of the application was given by the mayors of the cities of Hayward and San Leandro, the City Attorney of Hayward, the City Manager of San Leandro and by a councilman of the City of Hayward. Resolutions and letters endorsing the application were received from the City Council of the City of Hayward, the Hayward Chamber of Commerce, the San Lorenzo Colonial Improvement Club, the Federated Club of Alameda County, the San Leandro Chamber of Commerce, the Castro Valley Improvement and Social Club, the Castro Valley Business Men's Association, the Council of the City of San Leandro and the students of Hayward Union High School.

After full consideration of the matters proposed in the application, it would appear that the application should be granted, as by so doing, applicant will be authorized to furnish a regular service to a community now not served by any method of public transportation, to re-route certain operation and schedules to provide adequate

and satisfactory transportation, to discontinue certain operation over unnecessary routes and to furnish connection with other stage routes now operated by applicant, all in the interest of the public to be served. As the application is intended to iron out operation and coordinate service, the necessary authority granting the application will issue, not as a new and separate certificate, but as an addition to present operative rights now held by applicant, some of which rights are prescriptive and others as duly covered by certificates heretofore issued by this Commission.

Peerless Stages, Incorporated, 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

A public hearing having been held on the above entitled application, the matter having been duly submitted and being now ready for decision,

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 line as a common carrier of passengers, baggage and express between Castro Valley and the City of Hayward over a route

including "A" Street, Layne Street and Castro Valley Boulevard, and also requires the rerouting of a portion of present service now rendered over East Fourteenth Street via San Lorenzo and over the Foothill Boulevard, and the abandonment of present service now rendered on Plaza Drive, between East Fourteenth Street and Foothill Boulevard, and the rerouting of service between San Leandro and the Fairmount Hospital via Estudillo Avenue and Foothill Boulevard and between Fairmount Hospital and Hayward via Foothill Boulevard, and the consolidation of all service herein authorized with the service now rendered by applicant between Oakland, Hayward and San Jose, between Oakland and Palo Alto and between Oakland and Santa Cruz, some of said service now being rendered by prescriptive rights and others being rendered under certificates heretofore granted by this Commission.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to Peerless Stages, Incorporated, a corporation, for-

1. The operation of an automobile stage line as a common carrier of passengers, baggage and express between the City of Hayward and the Castro Valley via "A" Street, Layne Street and Castro Valley Boulevard to East 14th Street,
2. To reroute a portion of the existing service of applicant between San Leandro and Fairmount Hospital, via Estudillo Avenue and Foothill Boulevard,
3. To reroute a portion of the existing service of applicant between San Leandro and Hayward via San Lorenzo using Washington Avenue, Lewellyn Boulevard, Meekland Avenue and "A" Street,
4. To operate between Fairmount Hospital and Hayward via Foothill Boulevard,
5. To reroute a portion of service between Fairmount Hospital and East 14th Street over 181st Avenue in lieu of Plaza Drive,

6. To abandon service on Plaza Drive from Foothill Boulevard to East 14th Street,

7. To use, at the option of the applicant, that portion of the route over and along Castro Valley Boulevard between East 14th Street and 207th Avenue, said portion to be used principally to connect with other lines of applicant,

8. To establish service for the carriage of passengers, baggage and express to and from San Lorenzo to all points now served by applicant in accordance with present and proposed tariffs, rules and regulations as filed with this Commission,

9. To consolidate the present and proposed operation with the existing service of Peerless Stages, Incorporated, as now operated between Oakland, Hayward and San Jose, Oakland and Palo Alto, Oakland and Santa Cruz.

10. The authority herein granted is not a separate certificate of public convenience and necessity, but is granted as an addition to operative rights now held by the applicant, some of which are prescriptive and others covered by certificates of public convenience and necessity, as heretofore issued by this Commission and embracing operative rights between Oakland, Hayward and San Jose, Oakland and Palo Alto and San Jose and Santa Cruz, and intermediate points.

The Order herein is subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
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 19th day of February, 1934.

D. L. Henry
Leon C. Whitwell
W. H. Linn
W. B. Linn
W. B. Linn
Commissioners.