

Decision No. 27883.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PEERLESS STAGES, INC., for permission
to put into effect one day after pub-
lication and filing with the Commis-
sion temporary one way fares, rules
and regulations for transportation
between Oakland, San Leandro and Hay-
ward.

ORIGINAL

Application 15-19825.

In the Matter of the Application of
PEERLESS STAGES, INC., for permission
to make increases resulting from the
publication of temporary reduced fares
for transportation between Oakland,
San Leandro and Hayward.

Application 63-10975.

Orla St. Clair, for Peerless Stages, Inc., applicant.

E. J. Foulds, for Southern Pacific Company, protestant.

Frank S. Richards, for East Bay Street Railways, Ltd.,
protestant.

DEVLIN, Commissioner:

OPINION

These proceedings are an outgrowth of the Commission's
decisions in Application 19578, in re Application of East Bay
Street Railways, Ltd., for a certificate of public convenience and
necessity to operate motor coach service, etc. By Decision 27696
in that proceeding the Commission authorized East Bay Street Rail-
ways, Ltd., to abandon street car service and remove the facilities
upon a portion of its Oakland-Hayward line, and concurrently with

the abandonment of that service to operate as a unified and consolidated portion of its system an automotive passenger bus service for the transportation of passengers between Oakland and Hayward.¹ This service was inaugurated on or about March 10, 1935. On March 13, 1935, Peerless Stages, Inc., filed these applications. By them it seeks authority under Sections 15 and 63 of the Public Utilities Act² to publish and make effective on one day's notice, and to expire December 31, 1935, a tariff authorizing the sale of tokens in quantities of four or multiples thereof at the rate of four for 25 cents, and providing fares of one token each between Oakland and San Leandro and between San Leandro and Hayward.

In justification of the proposed adjustment applicant set forth the following:

"East Bay Street Railways, Ltd., by the Commission's Decision No. 27696, has commenced operation of its motor coaches between Oakland, San Leandro and Hayward, and because of the lower token rate and transfer privilege, said East Bay Railways has taken from applicant a considerable portion of the patronage which it enjoyed prior to the commencement of said motor bus operation by East Bay Railways. The fares proposed in the attached exhibit are at once necessary to in some measure retain our former patronage and to meet the new competitive conditions in the territory. In addition, the use of tokens will effect a substantial economy to applicant."

¹ Decision 27833 of March 18, 1935, in Application 19578 proposed to extend for a period of 30 days from the date thereof the effective date of Decision 27696, supra, in so far as the order in this latter decision purported to permit the East Bay Street Railways, Ltd., to operate through busses between Hayward and Oakland. The operation of this decision was enjoined however by a restraining order of the United States District Court.

²

Sections 15 and 63 of the Act provide in part as follows:

Section 15. "Unless the Commission otherwise orders, no change shall be made by any public utility in any * * fare * * or in any rule, regulation or contract relating to or affecting any * * fare * * or in any privilege or facility except after 30 days' notice to the Commission and the public as herein provided * * ."

Section 63(a). "No public utility shall raise any * * fare * * or so alter any * * practice, rule or regulation as to result in an increase in any * * fare * * under any circumstances whatsoever except upon a showing before the Commission and a finding by the Commission that such increase is justified."

Following receipt of protests from East Bay Street Railways, Ltd., and Southern Pacific Company, the informal applications were set for formal hearing, which was had at San Francisco April 2, 1935.

Applicant competes with the Southern Pacific Company between Oakland and San Leandro, between which points it maintains a service every 10 minutes throughout the day-time as against the Southern Pacific Company service every 20 minutes. It is in competition with East Bay Street Railways, Ltd., between Oakland, San Leandro and Hayward. The services of applicant and East Bay Street Railways, Ltd., are said to be substantially similar, the main difference apparently being that East Bay Street Railways, Ltd., busses leave Hayward four minutes ahead of applicant's busses.

The fares in effect today and those which applicant seeks to establish are as follows (see note):

	<u>PEERLESS STAGES, INC.</u>				<u>EAST BAY ST. RAILWAYS, LTD.</u>		<u>SOUTHERN PACIFIC COMPANY</u>	
	<u>Present</u> <u>One</u> <u>Way</u>	<u>Round</u> <u>Trip</u>	<u>Proposed</u> <u>One</u> <u>Way</u>	<u>Round</u> <u>Trip</u>	<u>One</u> <u>Way</u>	<u>Round</u> <u>Trip</u>	<u>One</u> <u>Way</u>	<u>Round</u> <u>Trip</u>
Between Oakland and San Leandro)	10	15	10 6½	15 12½	10 7 1/7	20 14 2/7	7	14
Between San Leandro and Hayward)	10 7 1/7	20 14 2/7	10 6½	20 12½	10 7 1/7	20 14 2/7	--	--
Between Oakland and Hayward)	15	25	15 12½	25	20 14 2/7	40 28 4/7	--	--

NOTE: Fares are stated in cents or fractions thereof. Where two fares are shown the higher is the single cash fare while the lower is obtainable by the purchase of books or tokens.

Applicant contends that the proposed fares are necessary to offset certain disadvantages under which it claims to be operating. These alleged disadvantages are as follows:

(a) Its fares are higher in certain instances than those of its competitors.

(b) Its competitors grant transfer privileges; it does not.

Applicant believes that because of these factors it loses approximately \$50 a day. A check of certain schedules shows that after March 10, 1935, the day East Bay Street Railways, Ltd., inaugurated its bus service, applicant transported an average of 3.58 less passengers per trip, or approximately 11% of the total volume of passengers carried, than during the first nine days of that month. The record shows however that the new East Bay Street Railways, Ltd., bus service is considerably faster than the old car service and it is not unlikely that this fact accounts for at least a portion of the decline in applicant's patronage. If the proposed tariff is permitted to become effective, applicant hopes to increase its present volume about 15%. What effect this would have on the revenue derived therefrom is left to conjecture. Applicant thinks it would increase its revenues, but offered no figures to support this belief. It has been operating this service at a loss for some time. By the use of tokens applicant expects to save money on clerical and printing costs and later on the purchase of fare registers.

Protestants argued that applicant had failed to justify the applications. East Bay Street Railways, Ltd., offered no testimony but pointed out that in certain instances applicant's fares are now lower than theirs. Particularly is this true of the round trip fare between Oakland and Hayward. Applicant tried to show that there was a disadvantage to the round trip requirement for the reason that its patrons did not always make round trips. These tickets however are good over a long period of time, and the extent of the disadvantage,

if any, is problematical. East Bay Street Railways, Ltd., also claims that applicant now has an advantage over it because of a difference in the zone limits in San Leandro.

Southern Pacific Company likewise contended that in so far as service is concerned, while it may have certain advantages over applicant, applicant also has an advantage over it in that it traverses a more productive territory in Oakland. Such advantages as one line here has over the other, protestant argues, are not properly offset by rate adjustments.

It is extremely doubtful whether applicant's net revenue would be increased if these applications were granted. Nor is the record convincing that applicant is at any material disadvantage because of the transfer privileges accorded by its competitors. On this record it must be concluded that the applications have not been justified.

It should be noted that applicant is not merely seeking to meet the fares of its competitors but that the fares here proposed are lower than those its competitors now maintain. If after operating for a reasonable time applicant finds that it is losing an appreciable amount of traffic, and a study reveals that the loss is actually attributable to the transfer privileges accorded by protestants, the matter may again be referred to the Commission's attention.

The following form of order is recommended:

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that these applications be and they are hereby denied without prejudice to the establishing by applicant

of fares not lower than those maintained by East Bay Street Railways, Ltd.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of April, 1935.

Leon C. C. C.

W. A. C.

W. B. C.

N. H. C.

Frank R. C.

Commissioners.