

ORIGINAL

Decision No. 28522.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of EAST BAY STREET RAILWAYS, LTD., a corporation, for a certified of public convenience and necessity to operate motor coach service in connection with its street railway lines in the Counties of Alameda and Contra Costa, State of California.

Supplemental Application No. 19502.

In the Matter of the Application of PEERLESS STAGES, INC., a corporation, for authority to abandon certain local motor coach lines.

Application No. 20346.

Harry A. Encell, for Peerless Stages, Inc.
Frank S. Richards, for East Bay Street Railways, Ltd.
Albert L. Poe, City Attorney, City of San Leandro.

BY THE COMMISSION:

O P I N I O N

Peerless Stages, Inc., on January 15, 1936, filed Application No. 20346 seeking authority to abandon its local motor coach lines operating in and in the vicinity of Hayward and San Leandro; to discontinue the transportation of local passengers between Oakland, San Leandro and Hayward on its Oakland-San Jose route; and to discontinue the operation of fifteen (15) motor coaches which have been used in this local service, alleging that with the proposed abandonment said coaches will no longer be necessary or useful.

East Bay Street Railways, Ltd., on January 15, 1936, filed its Supplemental Application No. 19502 seeking a certificate of public convenience and necessity to operate motor coach service upon and along the routes proposed to be abandoned by

said Peerless Stages, Inc., as applied for in Application No. 20346, except along such routes for which Applicant East Bay Street Railways, Ltd., now holds motor coach operative rights.

A public hearing was held in these proceedings before Examiner Hunter on January 22, 1936, in San Francisco, at which time the matters were, by stipulation of the parties, consolidated for hearing and determination.

The City Attorney for San Leandro requested that these matters be continued until the city had had an opportunity to further investigate, as these applications had been in possession of the city only a short time. The following plan was provided in the record which was agreeable to the City Attorney. After the city officials have considered the evidence adduced at the hearing, they will determine whether or not the city desires to press its request for a continuance. If they elect to do so, they will advise the Commission not later than January 25, 1936, and state their reasons for such a request. On the other hand, if the Commission does not hear from them, it will consider that the city has no objection to the granting of these applications.

As the matter now stands, the Commission has not received a second request from the City of San Leandro for a further hearing in this matter.

Peerless Stages, Inc., hereinafter sometimes referred to as the Peerless, operates a local passenger bus service between Oakland, San Leandro, Hayward, San Lorenzo, Fairmont Hospital⁽¹⁾ and Castro Valley, all in the County of Alameda, and a through passenger stage service between Oakland and Santa Cruz and Palo

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A limited service is operated on 150th Avenue and 159th Avenue between East 14th Street and Foothill Boulevard in connection with the regular routes, to provide service for Fairmont Hospital.

Alto via Hayward. A description of the lines involved in local passenger service is hereinafter given in Exhibit "A" attached hereto. The most important service sought to be abandoned, from a traffic standpoint, is the local motor coach operation of the Oakland-Santa Cruz route, between Oakland, San Leandro and Hayward, which operates largely along East 14th Street parallel to the Oakland-Hayward line of the East Bay Street Railways, Ltd. Such local traffic is carried by both through stages and local busses. The lines serving San Lorenzo, Fairmont Hospital and Castro Valley are more or less feeders to the East 14th Street line.

East Bay Street Railways, Ltd., hereinafter sometimes referred to as the Street Railway, proposes, upon the abandonment of the Peerless operation involved herein, to establish motor coach service to San Lorenzo, Fairmont Hospital and Castro Valley as a part of its coordinated intercity system serving the East Bay Metropolitan area. By this arrangement all of the new area thus served will be accorded transfer privileges to all of the other local lines of the Street Railway.

This entire plan would involve a slight increase in fares to a portion of the patrons now riding on the Peerless line between Oakland and Hayward, to the effect that the present temporary round-trip rate of Peerless between Oakland and Hayward is 25 cents without transfer privileges, whereas the cheapest rate offered by the Street Railway for this round trip, with transfer privileges, is 28-4/7 cents (4 tokens).⁽²⁾

(2)

The Street Railway zone rate is 10 cents or one token. Tokens are sold seven for 50 cents.

By the proposed arrangement the Peerless will continue to operate its through stage lines along East 14th Street and maintain its local express rights in this territory, but all local passengers between Oakland, San Leandro and Hayward⁽³⁾ will be carried by the Street Railway.

The record shows that with the abandonment of the local service as proposed herein by the Peerless, this carrier will have no further use for fifteen busses used in this local operation. It is alleged that the Street Railway will have sufficient equipment to perform the additional service proposed.

With the exception of the position taken by the City of San Leandro, no opposition developed to the granting of these applications.

It appears from the record that the coordination of all the local service in the San Leandro-Hayward area with that of the remainder of the East Bay Metropolitan district would be in public interest and that public convenience and necessity require the granting of the applications, and it will be so ordered.

East Bay Street Railways, Ltd., 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.

⁽³⁾ to
Extending the present southeasterly limits of the City of
Hayward.

O R D E R

A public hearing having been held, the matter having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that Peerless Stages, Inc., are hereby authorized:

I. (a) To abandon all motor coach service upon lines in and in the vicinity of San Leandro and Hayward, as described in Exhibit "A" attached hereto and made a part hereof.

(b) To abandon local passenger service between the cities of Oakland, San Leandro and Hayward, upon its No. 3 route, as described in said Exhibit "A," subject, however, to the following conditions:

- (1) Applicant shall give the travelling public not less than one (1) day's notice of the abandonment herein authorized by posting notices in the busses used in said local service.
- (2) Applicant shall make said abandonment effective concurrently with the establishment of motor coach service over said routes by East Bay Street Railways, Ltd., as hereinafter authorized, and not before.
- (3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of said abandonment and of its compliance with the conditions hereof.
- (4) Applicant shall cancel in conformity with the rules of this Commission all rate tariffs and time schedules applying to the service herein authorized to be abandoned.

II. To discontinue the operation and dispose of fifteen (15) motor coaches which the record shows are no longer necessary or useful in the performance of applicant's passenger transportation service to the public. Description of said motor coaches is delineated on Exhibit "B" attached hereto and made a part hereof.

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the operation by East Bay Street Railways, Ltd., of a motor coach service for the transportation of passengers upon and along routes described in Exhibit "C" attached hereto and made a part thereof, and to operate same as a part of its unified motor coach service, as authorized in this Commission's Decision No. 27183 , dated June 29, 1934, in said Application No. 19502.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to East Bay Street Railways, Ltd., subject to the following conditions and not otherwise:

- (1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the 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, and on not less than one day's notice to the Commission and the public, a tariff or tariffs constructed in accordance with the Commission's General Orders, which shall be identical in volume and effect, with the rates as shown in Exhibit "D" attached to Supplemental Application No. 19502 and made a part thereof.
- (3) Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the effective date of this order, on not less than one (1) day's notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Commission.
- (4) Applicant shall inaugurate said service on all the routes herein certificated concurrently with the abandonment of service by Peerless Stages, Inc., as hereinbefore authorized.
- (5) Applicant is authorized to turn its motor coaches at termini or intermediate points either at the intersection of the streets or by operating around a block contiguous to such intersection in either direction and to carry passengers, as traffic regulations of the municipalities or other public bodies require.

- (6) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of this Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- (7) No vehicles may be operated by applicant unless such vehicles are owned by said applicant or are leased by it under a contract or agreement on a basis satisfactory to this Commission.

For all other purposes the authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 27th day of January, 1936.

M B Lavin
Leon A. Wiley
M. A. Linn
Walter H. ...
Francis R. ...
Commissioners.

EXHIBIT "A"

Description of routes over which all service is to be abandoned by Peerless Stages, Inc., all in the County of Alameda, State of California:

Route No. 1:

Commencing at the intersection of Castro Street and "A" Street in the City of Hayward, thence along "A" Street to Redwood Road to Castro Valley Boulevard, along Castro Valley Boulevard to Foothill Boulevard, along Foothill Boulevard to Sybil Avenue, along Sybil Avenue to the intersection of Sybil Avenue and East 14th Street.

Route No. 2:

Commencing at the intersection of "A" Street and Foothill Boulevard in the City of Hayward, along Foothill Boulevard to the intersection of Foothill Boulevard and Castro Valley Boulevard.

Route No. 4:

Commencing at the intersection of Castro Street and "A" Street in the City of Hayward, thence along "A" Street to Meekland Avenue, along Meekland Avenue to Lewelling Boulevard, along Lewelling Boulevard through the Town of San Lorenzo to Washington Avenue, along Washington Avenue to Castro Street, in the City of San Leandro, along Castro Street to East 14th Street.

Fairmont Hospital Service:

Service operates via 150th Avenue and 159th Avenue between East 14th Street and Foothill Boulevard.

Description of the route over which local passenger service between Hayward, San Leandro and Oakland only is to be abandoned:

Route No. 3:

Commencing at a point in Castro Street, at the southeasterly limits of Hayward, along Castro Street to East 14th Street, along East 14th Street through the City of San Leandro to 47th Avenue in the City of Oakland, along 47th Avenue to East 12th Street, along East 12th Street to Fallon Street, along Fallon Street to 11th Street, along 11th Street to Clay Street, along Clay Street to 12th Street, along 12th Street to 1st Avenue, along 1st Avenue to East 14th Street and returning via East 14th Street and Castro Street to the point of beginning.

EXHIBIT "B"

Description of motor coaches to be released from
common carrier service by Peerless Stages, Inc.

Fifteen (15) twin coaches bearing the following
Peerless Stages, Inc., numbers:

<u>NUMBER</u>	
162	184
163	188
164	189
165	190
167	191
168	
180	
181	
182	
183	

EXHIBIT "C"

Routes upon and along which East Bay Street Railways, Ltd., is granted herein a certificate of public convenience and necessity to operate motor coach service:

	<u>County (Unincorporated) or City</u>	<u>Peerless Stages Route Numbers</u>
1. 11th Street from Clay Street to Washington Street	Oakland	1-2-3 & 4
11th Street from Broadway to Fallon Street	Oakland	1-2-3 & 4
Fallon Street from 11th Street to 12th Street	Oakland	1-2-3 & 4
2. East 12th Street from 1st Avenue to 47th Avenue	Oakland	1-2-3 & 4
47th Avenue from East 12th Street to East 14th Street	Oakland	1-2-3 & 4
3. Sybil Avenue from East 14th Street to Foothill Boulevard	San Leandro	1 & 2
Foothill Boulevard from Sybil Avenue to Castro Valley Road	Alameda County	1 & 2
Foothill Boulevard from Castro Valley Road to "A" Street (Hayward)	Alameda County and Hayward	2
Castro Valley Road from Foothill Boulevard to Redwood Road	Alameda County	1
Redwood Road from Castro Valley Road to "A" Street	Alameda County	1
"A" Street (Hayward) from Redwood Road to Castro Street	Alameda County and Hayward	1 & 2
4. Castro Street from East 14th Street to Washington Avenue	San Leandro	4
Washington Avenue from Castro Street to Lewelling Boulevard	San Leandro & Alameda County	4
Lewelling Boulevard from Washington Avenue to Meekland Avenue	Alameda County & San Lorenzo	4
Meekland Avenue from Lewelling Blvd., to "A" Street (Hayward)	Alameda County & Hayward	4

EXHIBIT "C" Continued

	<u>County (Unincorporated)</u> <u>or</u> <u>City</u>	<u>Peerless</u> <u>Stages</u> <u>Route</u> <u>Numbers</u>
4. (Cont'd)		
"A" Street from Meekland Avenue to Castro Street	Hayward	4
5. 150th Avenue from East 14th Street to Foothill Boulevard	Alameda County	Fairmont Hospital
159th Avenue from East 14th Street to Foothill Boulevard	Alameda County	Fairmont Hospital