

Decision No. 37341

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of VIOLET M. KELLER, an individual, doing business as PENINSULA DELIVERY SERVICE to sell and transfer highway common carrier operative rights and business to PENINSULA DELIVERY SERVICE, a corporation, and of PENINSULA DELIVERY SERVICE to issue stock.

Application No. 26328

BY THE COMMISSION:

O P I N I O N

Violet M. Keller, an individual, doing business as Peninsula Delivery Service, asks permission to sell and transfer her highway common carrier business, operative rights and assets to Peninsula Delivery Service, a corporation. The corporation asks permission to issue <sup>233</sup>~~225~~ shares of no par value capital stock at \$25 per share for the purposes hereinafter stated. 189M

The operative rights, which Violet M. Keller has agreed to sell to the corporation, were acquired by her pursuant to the authority granted by this Commission in Decision

No. 34374, dated July 1, 1941, in Application No. 24065, and were further defined in Decisions No. 36345 and 36976, dated May 11, 1943 and April 4, 1944, respectively, in Cases No. 4605 and 4606. In addition to selling her operative rights to the corporation, she has agreed to sell and transfer to the corporation, the following assets:

Cash in bank	\$1,279.50
Accounts receivable	685.50
Furniture and fixtures	200.00
One truck	<u>800.00</u>
Total	<u>\$2,965.00</u>

It will be observed that the \$2,965 includes nothing for operative rights.

The Peninsula Delivery Service, a corporation, asks permission to issue in payment for the assets, operative rights and business of Violet M. Keller, 120 shares of its capital stock at \$25 per share. The corporation also asks permission to issue for cash, 113 shares of its no par value capital stock at \$25 per share and acquire one 1940 Chevrolet 1½ Ton Van Body Truck at a cost of \$900, one 1938 Dodge ¾ Ton Van Body Truck at a cost of \$550, and one 1938 Kingan 12 Ton Van Body Trailer at a cost of \$1,375, making an aggregate cost of \$2,825.

From the record before us, it appears that the request for the authority sought is supported by the statements set forth in the application. However, the action taken herein shall not be construed to be a finding of value for any purpose.

Peninsula Delivery Service, a corporation, is hereby placed upon notice that operative rights as such, do not con-

stitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State for the consideration of the grant of such rights. 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

The Commission having considered applicants' requests and it being of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by Peninsula Delivery Service, a corporation, for the purposes herein stated; that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Violet M. Keller, an individual, doing business as Peninsula Delivery Service, may, after the date hereof and on or before December 31, 1944, sell and transfer to Peninsula Delivery Service, a corporation, the operative rights, assets and business referred to in the foregoing opinion.

109M

2. Peninsula Delivery Service, a corporation, may, after the date hereof and on or before December 31, 1944, issue at \$25 per share, ~~225~~<sup>237</sup> shares of its no par value capital stock and deliver 120 of said shares or the proceeds thereof to Violet M. Keller in payment for the operative rights, assets and business which she is herein authorized to sell and transfer to Peninsula Delivery Service, a corporation. The proceeds from 113 shares of said stock shall be used to pay for the equipment to which reference is made in the foregoing opinion other than the equipment being purchased from Violet M. Keller.

3. Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate and concurrently making effective appropriate tariffs and time tables within ninety (90) days from the date hereof and on not less than five days' notice to the Commission and the public.

4. Peninsula Delivery Service, a corporation, shall file with the Railroad Commission a report or reports required by the Commission's General Order No. 24-A, which order insofar as applicable is made a part of this Order.

Dated at San Francisco, California, this 26<sup>th</sup> day of September, 1944.

Justice F. Calmes  
Francis C. Havens  
Frank A. [unclear]  
[unclear]  
Commissioners