

Decision No. 37688

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
AUTOMOTIVE PURCHASING CO., INC., a corpo-)
ration, for authority to sell and transfer)
to PENINSULA DELIVERY SERVICE, a corpo-)
ration, highway common carrier and freight)
forwarder operative rights between San)
Francisco and Oakland on the one hand and)
San Jose and intermediate points on the)
other hand.)

ORIGINAL

Application No. 26488

BY THE COMMISSION:

O P I N I O N

This is an application of Automotive Purchasing Co., Inc. (1)
and Peninsula Delivery Service, both corporations, the former to
sell and the latter to buy, certain highway common carrier and
freight forwarder operative rights between San Francisco and
Oakland, on the one hand, and San Jose and intermediate points, on
the other hand. (2)

Automotive is engaged in the transportation of automotive
parts only, delivering to dealers, garages and service stations.
This carrier operates over two separate routes, the one
involved herein being between the following points:

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- (1) Hereinafter, for brevity, Automotive Purchasing Co., Inc. will be referred to as Automotive, and Peninsula Delivery Service as Peninsula.
 - (2) Decision No. 30653, rendered February 28, 1938, in Application No. 21155 as amended by Decision No. 31352, rendered October 10, 1938, in Application No. 21155.

Route 1. Between San Francisco and Oakland on the one hand and San Jose on the other, serving the intermediate points of South San Francisco, Burlingame, San Mateo, Beresford, Belmont, San Carlos, Redwood City, Atherton, Menlo Park, Palo Alto, Mayfield, Sunnyvale and Santa Clara, over U.S. Highway 101 and Bay Shore Boulevard with lateral connections between the two at Burlingame, Redwood City, Palo Alto and Sunnyvale.

Automotive is also a freight forwarder as that term is defined in Section 2(k) of the Public Utilities Act, and as such operates between the same points and over the same routes as hereinabove set forth in Route 1.⁽³⁾

Applicant Peninsula is a highway common carrier of property between San Francisco and Palo Alto and all intermediate points located on U.S. Highway No. 101,⁽⁴⁾ restricted to the transportation of packages weighing 100 pounds or less between San Francisco and Menlo Park and intermediate points; and to the handling of shipments not exceeding 50 pounds in weight to and from points situated between Menlo Park and Palo Alto (including Palo Alto and excluding Menlo Park).⁽⁵⁾

The reasons assigned for justification of the transfer are set forth in the application as follows:

The highway common carrier operations of both applicants are conducted over identical routes between San Francisco, Palo Alto and intermediate points and to this extent constitute an unnecessary duplication of operations.

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- (3) Freight forwarder rights were originally granted to applicant Automotive's predecessor in Decision No. 28187, as amended by Decision No. 31347, and acquired by Automotive in Decision No. 28539.
- (4) Decision No. 34374, in Application No. 24065, and Decisions Nos. 36345 and 36976, in Cases Nos. 4605 and 4606, respectively.
- (5) These operative rights were acquired through purchase by Peninsula, pursuant to Decision No. 37341.

The highway common carrier operations of both applicants, also the freight forwarder operations of applicant Automotive Purchasing Co., Inc., are conducted out of the same terminal in San Francisco, and are now all owned and operated by the same interests.

Applicant Peninsula Delivery Service, the proposed transferee, has sufficient equipment now in use or available to conduct all of these operations.

Economies in operation and improved service will result from a single ownership of said two highway common carrier businesses and said freight forwarder business.

The proposed transfer is in accordance with the policies of the Office of Defense Transportation in requiring joint operation of highway common carriers when practicable to accomplish the full utilization of automotive equipment.

A combined operation of these businesses into a single organization will result in a more complete use of personnel which is necessary under the existing shortage in office help, drivers and agents.

That the proposed transfer involves only the highway common carrier and freight forwarder operative rights of applicant Automotive Purchasing Co., Inc. above described, and does not include any automotive equipment or other assets of any kind; that applicant Peninsula Delivery Service is not requesting authority to issue any additional stock or otherwise capitalize in any manner whatsoever said highway common carrier and freight forwarder operative rights but will pay to applicant Automotive Purchasing Co., Inc. in consideration for the sale of said operative rights the sum of One Dollar (\$1.00) to be paid by Peninsula Delivery Service to Automotive Purchasing Co., Inc.

In addition to the operative right herein proposed to be transferred, Automotive also has been granted operative rights between San Francisco and Oakland, on the one hand, and points north and east thereof, on the other hand. ⁽⁶⁾ These rights are distinct and severable from the operative right proposed to be transferred and described in Route 1, supra. Automotive will continue to conduct operations north and east of San Francisco as a separate and distinct operation from that which it herein requests authority to sell and

(6) These rights are fully described as "Route 2" in Decision No. 31352.

transfer. It also agrees to assume all of the liabilities outstanding as of the date of the proposed transfer.

By the transfer, therefore, Automotive merely sells to Peninsula, for a nominal consideration of \$1, its highway common carrier and freight forwarder operative rights referred to under Route 1. Thereafter, the operations of both applicants between San Francisco and Oakland, and San Jose will be conducted entirely by Peninsula. No equipment or other assets of any kind are included in the proposed transfer.

It appears to us that the proposed transfer is advantageous and in the public interest, and should be granted. It will be so ordered. There is no necessity for a public hearing.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Peninsula Delivery Service is hereby placed upon notice that operative rights, as such, do not constitute 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 as the consideration for 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

Application having been made in the above entitled matter and the Commission being duly advised, and hereby finding that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That Automotive Purchasing Co., Inc. is authorized to sell and transfer, and Peninsula Delivery Service to acquire, on or before April 15, 1945, the highway common carrier operative rights and freight forwarder operative rights referred to in the foregoing opinion, and thereafter to operate thereunder.

(2) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-4 by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of February, 1945.

Harold Rudman
Justus F. Galloway
Richard Kachse

Ernest Powell
COMMISSIONERS