

ORIGINAL

Decision No. 43772

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
VINCENT A. LAMARRA and DEWAYNE P.)	
FLANIGAN, copartners doing business)	
as LAMARRA TRUCKING COMPANY, to sell)	Application No. 30958
and PENINSULA MOTOR EXPRESS, a)	
corporation, to purchase a highway)	
common carrier certificate between)	
San Francisco and Mountain View,)	
California.)	

O P I N I O N

The above entitled matter is a joint application in which Vincent A. Lamarra and Dewayne P. Flanigan copartners doing business as Lamarra Trucking Company and Peninsula Motor Express, a corporation, request the Commission to authorize the former to sell and the latter to buy an operative right authorizing the transportation of freight not in excess of 500 pounds per package between San Francisco and Mountain View. The right was created by Decision No. 25425 in Application No. 18527, amended by Decision No. 25860 in Application No. 18738 and transferred to sellers, by Decision No. 41210 in Application No. 28966.

The proposed sale and transfer will be made in accordance with an Agreement of Sale executed by the applicants, which specifies a consideration of three thousand dollars. Two thousand dollars is the agreed value of the intrastate operation herein considered, while the balance of one thousand dollars is the agreed value of an interstate certificate covering the same area. According to the applicants, an application is now pending before the Interstate Commerce Commission requesting authorization for the transfer of the interstate right. The sum of fifty dollars

has already been paid and the balance of two thousand nine hundred and fifty dollars is payable by the terms of the agreement within five days from the effective date of the last order authorizing such sale and transfer, whether it be the order of this Commission or the order of the Interstate Commerce Commission.

It is alleged that the seller is in acute financial difficulty and will have to discontinue service unless the authority sought is granted. It is further alleged that the purchaser is presently operating between Palo Alto and San Francisco and intermediate points and that the extended service could be provided at little additional cost.

The financial statement of the buyer indicates an operating revenue of \$94,256.84 and a net profit of \$8,066.30 during the period of January 1, 1949 to November 30, 1949.

After reviewing the facts of record the Commission is of the opinion and finds that the proposed sale is not adverse to the public interest and should be authorized. A public hearing is not necessary.

Peninsula Motor Express 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.

ORDER

Application having been made as above entitled, and the Commission being duly advised in the premises,

IT IS ORDERED as follows:

(1) That Vincent A. Lamarra and Dewayne P. Flanigan are hereby authorized to sell and transfer and Peninsula Motor Express is authorized to purchase and acquire the operative rights referred to in the foregoing opinion.

(2) That applicants herein shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate, and concurrently making effective appropriate tariffs and timetables within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

The effective date of this order shall be 20 days after the date hereof.

Dated at San Francisco California, this 7th day of February, 1950.

R. E. Anderson
Justin J. Calver
James H. Russell
Harold A. Kille
Penelope Patten
Commissioners