

ORIGINALDecision No. 48780

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 TED PETERS, JR. and LOWELL W. PETERS)
 to transfer, and TED PETERS TRUCKING)
 COMPANY, INC., a corporation, to) Application No. 34299
 acquire and exercise certain operative) (Amended)
 rights as a highway common carrier and)
 to issue stock and assume obligations.)

O P I N I O N

Applicants Ted Peters, Jr., and Lowell N. Peters in the application on file herein allege that they are individuals and are executors and residuary legatees of the estate of Ivy I. Peters, deceased. As executors of the estate of Ivy I. Peters they are authorized to render service as a highway common carrier pursuant to certificates of public convenience and necessity issued by this Commission in its Decisions Nos. 29769 and 43594, both of which certificates were acquired by said executors pursuant to Commission Decision No. 47736 in Application No. 33682. The applicant Ted Peters Trucking Company, Inc., is a California corporation incorporated by Ted Peters, Jr., Lowell Peters and Wilbur Gomes for the purpose of engaging in the trucking business.

Applicants now request an order of this Commission authorizing Ted Peters, Jr., and Lowell Peters to transfer to Ted Peters Trucking Company, Inc., the highway common carrier operative rights and the equipment and other property described in the application, and authorizing Ted Peters Trucking Company, Inc., to acquire and exercise said highway common carrier operative rights and to acquire said equipment and other property, and in consideration therefor and in consideration of the transfer of the carrier permits described in the application, to assume the obligations described in the

application as amended of which \$55,093.16 are current liabilities, \$17,568.55 are demand notes payable to Ted Peters, Jr., and Lowell N. Peters and \$93,320.54 are obligations extending beyond 12 months after the date thereof, and to issue to Ted Peters, Jr., and Lowell N. Peters 950 shares of its capital stock having an aggregate par value of \$95,000.

Applicants further allege: (1) the highway common carrier and permitted carrier business involved in the proposed transaction for many years has been carried on by Ted Peters, Jr., and Lowell N. Peters and their parents; (2) it is desired to continue the conduct of an established and necessary public business under a corporate form of organization; (3) the ownership of the business and the properties used in the conduct of its affairs will be substantially the same as at the present time; (4) the approval of the proposed transaction is in the public interest and will result in an efficient and permanent form of management which will tend to insure the continued rendition of service to the public.

The Commission finds that the proposed transfer by Ted Peters, Jr., and Lowell N. Peters, as executors of the estate of Ivy I. Peters, deceased, to Ted Peters Trucking Company, Inc., of the highway common carrier operative rights and the equipment and other property hereinbefore referred to and the exercise of said highway common carrier operative rights by said Ted Peters Trucking Company, Inc., will not be adverse to the public interest. The Commission further finds that the money, property and labor to be procured or paid for through the assumption of the obligations hereinbefore referred to in the amount of \$93,320.54 and extending beyond 12 months after the date thereof and through the issuance of the shares of stock to Ted Peters, Jr., and Lowell N. Peters as

executors of the estate of Ivy I. Peters, deceased, as herein proposed, by Ted Peters Trucking Company, Inc., a corporation, are reasonably required by said corporation for the purposes specified in the order issued herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. The authority requested will therefore be granted. A public hearing is unnecessary.

The action taken herein shall not be construed to be a finding of the value of the highway common carrier operative rights herein authorized to be received in consideration of the assumption of obligations and the issuance of common stock. Applicants are 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 as to the number of rights which may be given.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary and that the application should be granted as herein provided,

IT IS HEREBY ORDERED as follows:

(1) Ted Peters, Jr., and Lowell N. Peters, as executors of the estate of Ivy I. Peters, deceased, after the effective date hereof and on or before December 31, 1953, may transfer to

Ted Peters Trucking Company, Inc., a corporation, the highway common carrier operative rights and the equipment and other property described in the application on file herein, and after the effective date hereof and on or before December 31, 1953, Ted Peters Trucking Company, Inc., may acquire and thereafter exercise said highway common carrier operative rights and may acquire said equipment and other property.

(2) Ted Peters Trucking Company, Inc., a corporation, after the effective date hereof and on or before December 31, 1953, may assume the obligations described in the application on file herein in the amount of \$93,302.54 and payable at periods of more than 12 months after the date thereof, and may issue \$95,000 par value of its capital stock to Ted Peters, Jr., and Lowell N. Peters, as executors of the estate of Ivy I. Peters, deceased, for the purpose of acquiring the highway common carrier operative rights, carrier permits, equipment and other property, described in the application on file herein. No authority from this Commission is required for the assumption of the current liabilities in the amount of \$55,093.16 and the demand notes in the amount of \$17,568.55.

(3) Ted Peters Trucking Company, Inc., upon acquiring said highway common carrier operative rights, carrier permits, equipment and other property herein authorized, upon the assumption of said obligations and the issuance of said capital stock shall file with the Commission a copy of each journal entry used to record such transactions.

(4) On not less than five days' notice to the Commission and to the public, and concurrently with the transfer authorized

herein, applicants shall file in triplicate and make effective appropriate tariffs which shall be satisfactory to the Commission.

(5) Ted Peters Trucking Company, Inc., a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

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

Dated at San Francisco, California, this 30th day of June, 1953.

R. J. Dunning
President

Harold S. Kils

Bennett Potter

John L. Mitchell

Commissioners