

RR/lq

Decision No. 92539

DEC 16 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 KELLER'S FREIGHT LINE for authority  
 to establish a line-of-credit  
 secured by its accounts receivable  
 and to issue a Promissory Note.

**ORIGINAL**

Application No. 60113  
 (Filed November 26, 1980)

O P I N I O N

Keller's Freight Line (Keller) requests authority, pursuant to Sections 816 through 830 and 851 of the Public Utilities Code, as follows:

1. To enter into a line-of-credit arrangement with Financial Guild of America for a loan not to exceed the aggregate principal amount of \$100,000;
2. To issue a promissory note (Note) to Interbancorp, Inc. for a long-term loan not to exceed the aggregate principal amount of \$150,000; and
3. To encumber Keller's accounts receivable and assets.

Notice of the filing of the application appeared on the Commission's Daily Calendar of December 2, 1980. No protests have been received.

Keller is a California corporation operating as a highway common carrier under a Certificate of Public Convenience and Necessity granted pursuant to Decision No. 86810, dated January 5, 1977, in Application No. 56360 which is the subject of a co-extensive Certificate of Registration issued by the Interstate Commerce Commission in Docket MC-121687. Keller also operates as a highway common carrier under authority granted pursuant to Section 1063.5 of the Public Utilities Code, effective April 30, 1980, in Application GC-4075 under File No. T-68256.

Keller reported in its annual report to the Commission for Calendar Year 1979 that it generated total carrier operating revenues of \$1,965,238 and a net loss of \$122,133. For the seven months ended July 31, 1980, Keller provides an income statement shown as part of Attachment E attached to the application which indicates that Keller generated total carrier revenues of \$1,054,137 and operating income of \$3,602.

Keller's Balance Sheet as of July 31, 1980, attached to the application as part of Attachment E, is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Net Property and Equipment	\$473,123
Net Other Assets	11,076
Current Assets	137,156
Prepayments	<u>17,447</u>
Total	<u>\$638,802</u>
<u>Liabilities and Equity</u>	
Common Stock Equity	\$ 15,905
Long-Term Debt	324,167
Current Liabilities	228,612
Accrued Liabilities	<u>70,118</u>
Total	<u>\$638,802</u>

Keller proposes to enter into a line-of-credit arrangement with Financial Guild of America (Financial Guild) to acquire an advance not to exceed \$100,000 or eightypercent (80%) of Keller's accounts receivable based upon the terms and conditions found in the Loan and Security Agreement affixed to the application as Attachment B dated November 20, 1980.

Keller also proposes to issue and deliver to Interbancorp, Inc. a promissory note in the aggregate principal amount of \$150,000 under the terms and conditions found in the Installment Note (Note) and Loan and Security Agreement (Agreement) affixed to the application as Attachments C and D, respectively, and dated November 20, 1980.

Keller's attorney, in his letters dated December 5 and 8, 1980, states that the amount of the Note, Attachment C, is hereby amended to cover the principal amount of the Interbancorp, Inc. loan of \$150,000. Interest and loan fees are to be computed separately.

Keller's attorney, in his letter dated December 8, 1980, states that Financial Guild and Interbancorp, Inc. are affiliated companies; Keller, due to its present cash emergency, requests to encumber its accounts receivable and its assets to secure both loans.

The cost, to Keller, for Financial Guild's advance would be equal to the average daily advance times the prime interest rate in effect at the time the advance or advances are made by Financial Guild's bank. There will be a minimum monthly charge of \$1,000 for any month in which an advance is taken. The Agreement with Financial Guild would remain in effect for one year from the date of the first advance. The amount borrowed is to be repaid in twelve monthly payments including principal and interest.

Under the terms of the loan from Interbancorp, Inc., Keller will be liable to repay all sums borrowed, in accordance with a Note, not to exceed the principal amount of \$150,000, plus interest thereon at the prime lending rate in effect at Interbancorp, Inc.'s bank. Payments of all principal and interest owed by Keller under the Note would be paid in thirty-six consecutive monthly installments with a balloon payment on November 25, 1983, of all remaining principal and interest.

Both loans are also to be secured by personal guarantees of all of Keller's stockholders. The stockholders of record are as follows:

<u>Stockholder</u>	<u>No. of Shares Held</u>
Wanda Keller	777
Delbert R. Keller	624
Donald Keller	<u>599</u>
Total	<u>2,000</u>

The purpose of the proposed loans is to provide funds to enable Keller to discharge current obligations and to provide Keller with a line-of-credit on which it may draw to upgrade and recondition deteriorating operating equipment and cover day-to-day needs for working capital.

Keller reports that a review of its books has established that it has a severe shortage of cash to cover current liabilities and it is in serious need of an immediate infusion of cash to pay threatening creditors. Keller requests a finding that it is suffering from an unforeseen emergency situation as described in Section 306(b) of the Public Utilities Code and Article 81.5 of the Commission's Rules of Practice and Procedure that the Commission waive publication requirements otherwise required for the Commission's regular meeting agenda. Keller stresses the fact that its immediate "cash crisis" is a matter which could not have been anticipated and which will likely require more prompt Commission action than would be permitted if advance publication were made on the regular meeting agenda. Exercise of the Commission's power, Keller states, will have no negative effect upon competing carriers or the shipping public and will preserve the existence of Keller's services which many members of the public rely upon. Because of this need, we will make this order effective on the date Keller pays the fee prescribed by Section 1904(b) of the Public Utilities Code.

The staff of the Commission's Revenue Requirements Division and its Transportation Division has reviewed the application, has concluded the proposed financing is necessary to meet Keller's immediate and long-term cash requirements, and has no objection to granting the authority requested.

Findings of Fact

1. Keller is a California corporation operating as a highway common carrier subject to the jurisdiction of this Commission.

2. Keller is experiencing a severe cash crisis and has an urgent need for external funds for the purposes specified in the application.

3. Keller proposes to enter into a line-of-credit agreement for \$100,000 with Financial Guild of America.

4. Keller proposes to enter into a loan agreement and issue a promissory note to Interbankcorp, Inc. to secure a long-term loan not to exceed \$150,000.

5. Keller proposes to secure the line-of-credit loan and the long-term loan by encumbering its accounts receivable and assets.

6. The proposed line-of-credit agreements and promissory note would not be adverse to the public interest.

7. The money, property or labor to be procured or paid for by the line-of-credit advance or advances and the promissory note herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

8. There is no known opposition and no reason to delay granting the authority requested

Conclusions of Law

1. A public hearing is not necessary.

2. The application should be granted to the extent set forth in the order which follows.

The action taken herein is for the purpose of this proceeding only and is not to be construed as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or after the effective date hereof and on or before June 30, 1981, for the purposes specified in the application, Keller's Freight Line may issue and deliver to Financial Guild of America a Loan and Securities Agreement for a line-of-credit not to exceed \$100,000 and co-secured by Keller's accounts receivable and assets. The form, terms, and conditions of the Agreement will be the same as those shown in Attachment B, as amended by Keller in its Attorney's letter dated December 5, 1980.
2. On or after the effective date hereof and on or before June 30, 1981, for the purposes specified in the application, Keller's Freight Line may issue and deliver to Interbancorp, Inc. a Promissory Note and related Loan and Securities Agreement in the aggregate principal amount of \$150,000 and co-secured by Keller's accounts receivable and assets. The form, terms, and conditions of the Promissory Note and Agreement will be in substantially the same forms as those shown in Attachments C and D, as amended by Keller in its attorney's letter dated December 5, 1980.
3. Keller's Freight Line may encumber its accounts receivable and assets to provide security for its line-of-credit agreements and promissory note.
4. Keller's Freight Line shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

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5. This order shall become effective when Keller's Freight Line has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$500.

Dated DEC 16 1980, at San Francisco, California.

John E. Bryson  
President

Richard A. Howell

Clare J. ...

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

