

20620

Decision No. 20620.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application  
of R. Balmain, W.O. Smith, and  
J.S. Ginocchio to sell and  
J.S. Ginocchio to purchase an  
automobile freight line operated  
between Westwood, California and  
the Nevada State line, to a point  
approximately 17 miles north of  
Reno.

Application  
No. 15237.

BY THE COMMISSION:-

ORIGINAL

OPINION and ORDER

R. Balmain, W.O. Smith, and J.S. Ginocchio have petitioned the Railroad Commission for an order approving the sale and transfer of the interests of R. Balmain and W.O. Smith in an operating right for an automotive trucking service between Westwood and a point on the California-Nevada state line near Doyle to J.S. Ginocchio and J.S. Ginocchio has applied for authority to purchase and acquire the interests of his partners and to hereafter operate said service as sole owner, the sale and transfer to be in accordance with an agreement a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$10,000. Of this sum \$8,000. is declared by applicants to be the value of equipment and \$2,000. is said to be the value of intangibles.

The records of the Commission show that the operating right herein proposed to be transferred was established as follows:

By Decision No. 9737, dated November 20, 1921, on Application No. 7190, Louis E. Smith and F.W. Ramsey, doing business under the firm name and style of Smith and Ramsey, were granted a certificate for the transportation of freight and express by automobile between Susanville and Doyle serving as an intermediate point Wemple Ranch;

By Decision No. 10771, dated July 25, 1922, on Application No. 8066, Smith and Ramsey were authorized to transfer to F.D. Lavine the right acquired in Application No. 7190;

By Decision No. 11688, dated February 20, 1923, on Application No. 8653, Lavine was authorized to sell the above described right to a copartnership consisting of Geo. A. Scott and S.C. Cassidy;

By Decision No. 12972, dated December 31, 1923, on Application No. 8111, Scott and Cassidy, doing business under the firm name of Nevada-California Transportation Company were granted a certificate for the operation

" . . . of an automobile freight line, as a common carrier of freight, between Susanville and Westwood, together with the authority to link up and combine said freight service between Susanville and Westwood with the freight service of said applicants now operated between Doyle and Susanville."

Decision No. 13683, dated June 11, 1924, is a supplemental order on Application No. 8111 amending the original order by granting a certificate to Scott and Cassidy for the transportation of freight as a common carrier

" . . . . between Doyle and the California-Nevada line to Reno as a part of and in conjunction with their existing service between Susanville, Westwood and Doyle . . . ."

Decision No. 13677, dated June 11, 1924, on Application No. 9953, the copartnership of Scott and Cassidy was authorized to transfer its operating rights to S.C. Cassidy;

By Decision No. 17365, dated September 21, 1926, on Application No. 13047, S.C. Cassidy was authorized to transfer the hereinabove described operating right to a copartnership consisting of W.O. Smith, R. Balmain and J.S. Cinocchio.

By Decision No. 20569, dated December 7, 1928, the Commission further amended said Decision No. 13683 by a supplemental order authorizing service to intermediate points between Westwood and Doyle, said supplemental order correcting an error in the original grant.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

J.S. Cinocchio is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2- Applicant Balmain, Smith and Ginocchio, copartners, shall immediately unite with applicant J.S. Ginocchio in common supplement to the tariffs on file with the Commission, applicants Balmain, Smith and Ginocchio on the one hand withdrawing and applicant J.S. Ginocchio on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Balmain, Smith and Ginocchio shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicant J.S. Ginocchio shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Balmain, Smith and Ginocchio which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Applicants Balmain, Smith and Ginocchio, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicant J.S. Ginocchio unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

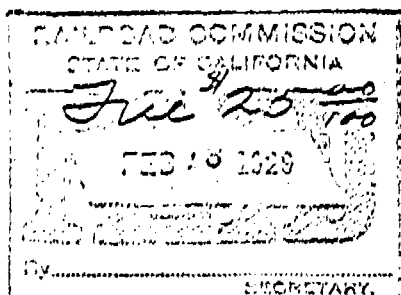
6- This order shall not become effective until there has been paid to the Railroad Commission the fee required or to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.

Dated at San Francisco, California, this 22<sup>nd</sup> day of

December 1928.

Leon Whitney

Secretary



BY W. J. Cain  
SECRETARY

W. J. Cain

COMMISSIONERS.