

Decision No. 22585

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 J. P. MUSCARDINI to sell, and)
 STEVEN MATTEODA to purchase an automobile) Application
 passenger and express line operated between) No. 16573
 Nevada City and Graniteville, California.)

BY THE COMMISSION -

ORIGINAL

OPINION and ORDER

J. P. Muscardini has petitioned the Railroad Commission for an order approving the sale and transfer by him to Steven Matteoda of an operating right for an automotive service for the transportation of passengers and property between Nevada City and Graniteville, and Steven Matteoda has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", 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 \$4000. All of this sum is declared to be the value of equipment.

The operating right herein proposed to be transferred was established, the records of the Commission show, by operation prior to May 1, 1917.

On February 15, 1917, F. H. Grissel, as Agent, issued C.R.C. No. 1 of Eureka Express Company, effective March 1, 1917, and showing rates for the transportation of passengers, baggage, in excess of 50 pounds, and packages not exceeding 100 pounds in weight, between Nevada City and Graniteville and intermediate points. On March 11, 1921, Henry German issued, under the name Eureka Express Company, C.R.C. No. 2 canceling C.R.C. No. 1. The effective date of this tariff is March 14, 1921. It shows rates for the transportation of passengers,

baggage in excess of 50 pounds, and packages not exceeding 100 pounds in weight, between Nevada City and Graniteville and intermediate points via Blue Tent and Grizzly Hill, Lake City, North Bloomfield and Moore's Flat.

By Decision No.10783, dated July 25, 1922, on Application No.2083, the Commission authorized Henry German to transfer to J. P. Muscardini a prescriptive operative right between Nevada City and Graniteville and intermediate points.

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.

Steven Matteoda 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 Muscardini shall immediately unite with applicant Matteoda in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Muscardini on the one hand withdrawing, and applicant Matteoda on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Muscardini shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Matteoda shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Muscardini which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Muscardini, 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 Matteoda 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.

Dated at San Francisco, California, this 4th day of June, 1930.

Al. Sweeney
Frank J. Sweeney

Wm. J. Sweeney

Commissioners.