

Decision No. 22586

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 T. LANDI and TONY PIMENTEL to sell
 and L. ARECCO to purchase one-half
 interest in automobile freight line
 operated between San Francisco and
 Oakland, California.)
)
) Application
) No. 16670
)
)

BY THE COMMISSION -

ORIGINAL

OPINION and ORDER

T. Landi and Tony Pimentel, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to L. Arecco of Tony Pimentel's one half interest in operating right for an automotive service for the transportation of property between Oakland and San Francisco and Oakland and certain other points, and L. Arecco has petitioned for authority to purchase and acquire said one-half interest in said operating right and, with T. Landi as a partner, 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 \$5000. All of this sum is declared to be the value of Pimentel's one-half interest in certain equipment.

The operating right between Oakland and San Francisco, a one-half interest in which is herein proposed to be transferred, was originally granted to a partnership consisting of T. Landi, E. Martinelli and A. Pardini, the Commission's order granting the right having been issued in Decision No. 9757, dated November 19, 1921, on Application No. 7289. Subsequently Martinelli died and Anna Martinelli, his widow and sole heir,

with the approval of the Railroad Commission by its Decision No.15493 on Application No.11714, transferred his interest in the operating right to Landi and Pardini. By Decision No.15650, dated November 20, 1925, and issued on Application No.11974, the Pardini interest was transferred to Pimentel. This right authorized a truck operation for the transportation of perishable fruits and vegetables between San Francisco and Oakland. The second right was granted by Decision No.17657, dated November 26, 1928, and issued on Application No.12707. Said decision authorized a trucking service for the transportation of "apples, pears, cherries, grapes and Christmas wreaths" between a number of designated farms and the City of Oakland by way of San Rafael and Richmond, with the provision that no service be rendered between Petaluma and Oakland. The two rights were not consolidated.

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.

T. Landi and L. Arecco are 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- Applicants Landi and Pimentel shall immediately unite with applicants Landi and Arecco in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Landi and Pimentel on the one hand withdrawing, and applicants Landi and Arecco on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Landi and Pimentel shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants Landi and Arecco shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Landi and Pimentel, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Landi and Pimentel, 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 applicants Landi and Arecco unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 25th day of January,
1930.

Ed Scamper
Edward J. Scamper

Paul J. Landi

COMMISSIONERS.