

Decision No. 22,716

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 TOCCHINI & DIANDA to sell, and
 ADOLPH TOLOMIE to purchase, an automobile
 freight line operated from Half Moon Bay
 District to Colma and San Francisco, via
 Crystal Lakes road and San Mateo.

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) Application
) No. 16691
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ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Tocchini & Dianda, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to Adolph Tolomie of an operating right for an automotive service for the transportation of property from Half Moon Bay district to Colma and San Francisco, via Crystal Lakes Road and San Mateo, and Adolph Tolomie 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 \$2943. Of this sum \$2942 is declared to be the value of equipment and \$1.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was originally granted to Paul Gatto by Decision No. 10065, dated February 8, 1922, and issued on Application No. 7440. Said decision authorized Gatto to operate "an automobile truck line as a common carrier of vegetables and other perishable farm products from the Half Moon Bay District to Colma and San Francisco via the Crystal Lakes road and San Mateo, but not serving San Mateo as an intermediate point," with the further provision "that he shall not accept or transport any freight whatsoever from San Francisco or

Colma to Pedro Valley or Half Moon Bay, except empty boxes and crates which will be returned to shippers free of charge."

By Decision No. 11417, dated December 29, 1922, and issued on Application No. 8511, the Commission authorized Gatto to transfer the right to Tocchini & Dianda.

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.

Adolph Tolomie 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- Applicants Tocchini & Dianda shall immediately unite with applicant Tolomie in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Tocchini & Dianda on the one hand withdrawing, and applicant Tolomie on the other hand accepting and establishing such tariffs and all effective supplement thereto.

3- Applicants Tocchini & Dianda shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicant Tolomie shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Tocchini & Dianda, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Tocchini & Dianda, 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 Tolmie 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 20th day of July,
1930.

C. S. Adams
Erwin J. Adams

M. J. Lee
COMMISSIONERS.